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STUDIES IN THE CIVIL, SOCIAL  
AND ECCLESIASTICAL  
HISTORY OF EARLY MARYLAND

LECTURES DELIVERED TO THE YOUNG MEN OF  
THE AGRICULTURAL COLLEGE OF  
MARYLAND

BY THE

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Though these lectures were prepared for the young men of Maryland, they will be found to contain much of both information and interest to all those whose minds have been drawn to the early history of our country.



## PREFACE.

In a very marked degree Maryland history has suffered at the hands of its friends. Desiring to be just, and often truly enthusiastic, they have viewed its course in the direct light of their own prejudices, and the consequence has been a perverted, incomplete, unphilosophical presentation. For Maryland history is many-sided, having, in its course, involved many questions of very diverse kinds,—ecclesiastical, civil, social, political, military. Starting in a small, unique colony, with peculiar institutions created by a charter, itself the outcome of political notions that were fast losing their hold on the popular mind, it had to fight its way, often in weakness, through those institutions up into larger and truer ideas of human liberty. Fight its way; for there was always a sufficient number of conservative men, who held by what was old, to make the efforts of the liberal majority difficult, and to necessitate years of effort before success could crown their endeavors.

And this contest went on in all the departments of life, political, civil, social and ecclesiastical; in the last as eminently as in any other; for ecclesiastical affairs belonged as much to the political life of a people then as civil or social affairs did, and probably excited always far more of prejudice and passion than either of them.

To form a just estimate of the history of a people a man must transplant himself into the days which he is describing. For nearly as much as the Maryland of

1776 differed from the Maryland of 1634, does the Maryland of 1893 differ from the Maryland of 1700, the period of the greatest and most radical changes in government and policy; and to stand now and argue about questions of the policy of the colony then from the civil or social ideas of this present time, is folly. We must view things from the standpoint of those times,—put ourselves in their place; for what might be folly now was wisdom then, and certainly what is wisdom now it would have proven wicked and absurd to have attempted then. And yet this is the way some have attempted to write Maryland history.

Again, Maryland has been unfortunate in the bent of mind of her historians. Too many have approached the matter in a partisan spirit, as if they would fortify a position, defend a claim, out of her records. In ecclesiastical matters this has been most notable. She has had her Protestant historians and her Romanist historians. She has also had her infidel, or at any rate agnostic, historians, and great questions have been tossed about, pretensions derided, claims scorned, assumptions set up, assertions made, with reckless effrontery.

All that can be said is, that such is not the way to write history. It is to be written by first determining the facts, viewing them according to their setting in the midst of their own times, explaining them according to the exigencies that created them or the purposes for which they were called into being. We are not wiser than the people of those former days. We may be better grown than they; our state of society may be more mature. But according to their day and generation they knew as well what was good for them as we know now what is good for us. And the way to write history is to recognize this fact.

It is in this spirit I have attempted to write these lectures. I do not call the book a history, for that is an ambitious word and very often misapplied. It will be found, I trust, a series of panoramic views, full and sufficiently clear in outline to give every one definite and accurate ideas of that earlier life of our State. I have endeavored to write without prejudice, and to follow out the principles of historical writing that I would suggest to others. The people of the province were a sturdy set and worthy of all respect. They were of heterogeneous elements, viewed in whatever way we will, but at the same time they had that power of cohesion and assimilation that gave a oneness to their colonial life. And as they passed on from year to year they gave to Maryland features that commanded the esteem of the country and of the world.

It is gratifying to know that Maryland made herself. Neither king nor proprietary was ever her friend, save as her prosperity promoted their own. She grew, and did so by the liberality of the principles on which her government was administered.

It is my earnest hope that this work may commend itself to the favorable judgment of all that shall read it, and especially to the judgment of the children of Maryland herself.

T. C. G.



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# HISTORY OF EARLY MARYLAND



## FIRST LECTURE.

### INTRODUCTORY.

#### COLONIZATION IN THE SIXTEENTH CENTURY.

In reviewing the history of colonization in the period subsequent to the discovery of America, we are struck with how little activity was shown by the English nation, the more so because in these later days the English people have shown so much more activity than all the rest of the world. By nature they are evidently a restless people; nor is there any territory nor any clime to which they are not ambitious to penetrate, and penetrating, to leave permanent results of their presence. It may be said of them that they never let go what they have once had their hand on, and that they not only retain, but also incorporate into their empire, whatever they have once possessed.

Why then were they so apathetic through the whole sixteenth century? Spain and Portugal were both wonderfully active, and extended their dominions and reaped wonderful results. Wealth and prosperity and power were the immediate results, to Spain especially, so that she was able to assume the first position among European nations and to dominate her neighbors. Is it that the English people have changed in their nature and disposition? By no means; for as soon as the success of Columbus became known, and the existence of another world was determined, we find Henry the Seventh sending

out an expedition under the direction of the Cabots, and securing for himself a title, under the law of nations, to the Atlantic coast of North America, which was afterwards covered with English colonies.

Besides, nations do not change their nature or disposition. They have idiosyncrasies as much as individuals have, certain peculiar qualities that belong to their character; and while varying circumstances may foster or repress their manifestation, yet they are there all the time. And as we see, the idiosyncrasy of colonization has been manifested by the English people for the last three hundred years. Other nations, by emulation, have sought to colonize, France and Germany, for instance; but their attempts have been in a great degree failures, their colonies flourishing for a while and then languishing, or passing into the hands of other people. But the English people do not know how to relinquish a colony, unless the lesson is taught them by the children of their own blood, as the colonies of North America taught them in seventeen hundred and seventy-six. They are a colonizing people, as much so as the Greeks and Romans were of old, and like them they carry their own language and institutions with them, and make every colony a new center for the outspreading of the empire. How notable this is in America, where though but a handful of people were planted at the first, and where thousands and ten thousands have been coming through the centuries from every country under heaven, yet it is the daughter of England still, in language, in institutions, in sympathies, in aspirations and, apparently, in destiny.

No, the apathy of England through the sixteenth century, when Spain was extending her American empire,



is not to be explained in that way. There has been no change in her nature or disposition. The probable and almost certain reason is that the English mind was occupied in another way, that the thought and the energies of the people were given to another subject, a subject that had, however, a remote but distinct bearing upon the nature of English enterprise whenever that should be developed.

And what was that subject? It was the great agitation that arose early in the sixteenth century concerning religion, the Reformation period, during which, while the nations of southern Europe—Spain, France, Italy, Portugal—were disturbed only in a slight degree, so that their enterprises were not hindered, the nations of northern Europe—Germany, Switzerland, Holland, England—were agitated to their very center, so that any propensity that might have been indicated by Henry the Seventh or Henry the Eighth, was quickly submerged in the wild waters of discussion, controversy and persecution. The world generally attends to but one thing at a time, being business-like in its habits. One subject masters a period, and only when that subject is disposed of, does the public mind feel capable of turning its attention to some new thing.

And so it was that when the whole subject of religion had become definitely settled, when the Protestant Church of England, with Protestant doctrines, had been definitely established in the days of Elizabeth and James the First, the English people turned their attention to the Western world, and to the extensive territory they had acquired a century before by the right of discovery. Soon, however, the new spirit developed, and throughout

all the classes of society the question of new settlements was discussed. With some it was a matter of individual enterprise and the bettering of their private fortunes; with some it was pure love of adventure; with some it may have been, as the old charters said, to extend the benefits of the Christian religion to the natives and to extend the English dominion; with some it certainly was to enjoy greater freedom in religion themselves and the right to worship in their own way, as denied by the laws of England. But from whatever motive, the whole kingdom soon became alive to the great question of planting colonies.

Another interesting subject may well be considered in this lecture: by what title it was that colonies might be planted in the new countries discovered. It was, briefly, by the might of the strongest. Had Columbus reached the shores of Asia as he had anticipated he would, and as the writings of Marco Polo, who had traveled across Asia about the middle of the thirteenth century, had led him to believe he should, the Spaniards would never have attempted to fix colonies there, or if they had they would soon have been compelled to desist. There would not have been might enough to secure the title. As it was, however, the land discovered had but few inhabitants and they not capable of coping with the well-armed and well-disciplined Europeans, and consequently colonies were planted according to the will of the adventurers. In some places, it is true, the rights of the aborigines were recognized, as in Maryland and Pennsylvania, and their lands purchased from them, though hardly in any case at an appreciable price. In most cases, however, and in particular by the Spaniards, both

the countries and the inhabitants were looked upon as a spoil, and the lands, with towns and cities, were appropriated to themselves by the discoverers, and the people reduced to a hopeless bondage.

There can, however, be no reasonable doubt of the right of the Europeans to plant their colonies on the American continent, with the approval of the natives, if possible, and without that approval if necessary. God created the earth for man, and a few savage tribes wandering over immense wastes of forest was never within His intention. There are laws superior to written ones, laws which man recognizes by his intuition; and looking at the matter from this point in time, we feel that the right of the strongest, as then exercised, is a natural and legitimate right. We must reprobate the cruelties practised; we must hedge about the law by insisting on all individual rights; we must remember that it was only that right that justified to those engaged in it, the whole base slave trade when millions were torn from their homes in Africa to supply the white man with profitable labor. It is a law that requires and commands unlimited Christian charity for its commentary. It is a law that allowed the nations of antiquity to indulge to brutality all their vices upon conquered people, often far better than they. It is a terrible instrument in the hands of selfish men. But still it is a law, and if it had not been observed, and its privileges insisted on, the fairest dominion on the face of God's earth would never have been created, and the noblest institutions, such as we have, for the fostering of the human spirit, might never have existed.

But what was the right avowed by the nations of Europe when they sent out their colonies to this continent? As regards England, this is seen in the commission given by Henry the Seventh to the Cabots who sailed under the English flag. The commission bears date of 1496, four years after the discovery by Columbus, and runs thus:

“We grant and give license to the same and either of them, or either of their heirs and deputies, to affix our aforesaid banners and insignia on any town, city, castle, island or continent by them newly discovered. And that the aforesaid John (Cabot), and his sons or heirs, and their deputies, may possess and occupy all the aforesaid towns, castles, cities and islands by them discovered, which may of right be subjugated and occupied, as our vassals, and their governors, lieutenants and deputies; they obtaining for us the dominion, title and jurisdiction of the said towns, castles and islands and continents so discovered.”

The right avowed, therefore, was the right to go in and subjugate and occupy,—a heathenish application of the right of the strongest, as villainous and brutal as any that ever disgraced the Pharaohs of old. To recognize the rights of the savage at the same time that we would recover the wastes of the wilderness, and extend the blessings of religion and civilization, has ever been difficult. As it turned out, the coast that the English visited did not present towns, castles, cities for subjugation; but according to the terms, if the Cabots had found America teeming with a population as thick and as elevated in civilization as England itself, they would have been justified in making the attempt, with fire and sword if

necessary, to bring the inhabitants under the English dominion. We all remember how, where there was a duly organized society, as in Mexico and Peru, the Spaniards felt themselves justified in reducing, at whatever cost of cruelty, the whole aboriginal population.

We find, however, that the Spaniards rested their right to possession and dominion on another plea. As you probably know, the Portuguese were, at the time of the discovery of America, much more of a maritime people than the Spaniards; for the internal struggles of Spain to secure unity for the kingdom, by the subjugation of the Moors, had enlisted all the energy and the resources at the command of Ferdinand and Isabella. The Portuguese, meanwhile, were cultivating the spirit of discovery, and Columbus, before he approached the Spanish throne, had endeavored to make the king of Portugal his patron, by whom, however, he was rejected. In their enterprise at this time the Portuguese had, in the year 1486, reached the Cape of Good Hope and discovered the way to India; a most valuable discovery, because it saved the necessity for the long and dangerous route overland, by which, up to this time, India had been reached.

It is easy to understand, then, how they must have been filled with alarm when news came of the success of Columbus in 1492, for in the ignorance of the whole nature of the land to the west, Columbus himself believing that he had reached the Indies by his western course, we can see how Portugal must have felt that the prize she had almost in her grasp was about to be lost. The only recourse in such a case was either to maintain their right by arms or else to appeal to the Pope, who had at this

time made himself arbiter of the nations, deciding in their affairs, often with a plenitude of authority which is to us of this day astonishing.

In the year 1454 Pope Nicholas had granted to Portugal the empire of Guinea, with authority to subdue it, and at the same time he prohibited all persons from sailing thither without the permission of the Portuguese. Such a proposition belonged to that time, however extravagant it would appear now that any nation of Europe should seek the Pope's consent, either to secure a province in Africa or anywhere else, or having secured it, to defend it against all intruders. Such rights are now secured and defended in altogether another way.

The claims of the Pope to such jurisdiction are fully set forth in his grant in 1493, after the return of Columbus, and when the conflict of jurisdiction was anticipated between Portugal and Spain. The grant runs thus:

"Given at Rome, 7th of May, 1493. From our motion, not moved thereto by your petition or that of any other in your behalf, but of our own mere liberality and certain knowledge, and the plenitude of Apostolic authority, we grant to you and your successors, Kings of Castile and Leon, all islands and continents, found and to be found, discovered and to be discovered, towards the west and south (drawing a line from one pole to the other at a hundred leagues west of the Azores) by the authority granted us in the blessed Peter, and by the vicarship of Jesus Christ which we discharge on earth, with all the dominion, states, etc., to the same belonging. And we constitute, ordain and appoint you, your heirs and successors, as aforesaid, lords of the same, with full, free and all manner of power, authority and jurisdiction."

You see the nature of the authority claimed: as the successor of St. Peter and as the vicar of Jesus Christ, to whom the earth belongs. This was what was meant then by the temporal power of the Pope. Everything discovered or to be discovered; it was a most magnificent gift. All to the east was given to the Portuguese, but the American continent and islands were to belong to Spain. This most bountiful Pope was the celebrated Borgia, Alexandria VI, who is described as "the most infamous Pope that ever lived, and the most vicious prince of his age."

This line of one hundred leagues, however, did not satisfy Portugal, and consequently a commission was appointed, of three members from each country, with plenipotentiary power, who carried the line two hundred and seventy leagues farther west, a most fortunate circumstance for Portugal, as by accidental discovery in 1499 Brazil fell to her lot, lying, as it did, within the lines given.

How greatly have the laws of political economy changed since that day. Europe was just then emerging from feudalism, during the long prevalence of which human rights, and grace, mercy, gentleness, were almost unknown. Now, there are laws of nations and international amenities. Now, there is a public opinion among nations, and nations seek to justify themselves to the minds of other nations. "A decent respect for the opinions of mankind" enters into all great movements. Then men were in many instances only half-civilized, even in Christian lands, and some power like the Papal was very beneficial for ameliorating international relations. The whole seems out of place now, because men

are no longer half-civilized; but nations, resting upon more elevated notions of conduct, are frequently able to determine questions peaceably that in other days would have precipitated gigantic war. The Papal assumptions, however regarded at this day, were the growth and outcome of the circumstances of those earlier times. The misfortune was that the circumstances that gave occasion for the assumptions proved also the ruin of the papacy. Her achievement of good diminished as her opportunity for good increased.

When the charter for the province of Maryland was given, attention had for some years been bestowed on the settlement of the Atlantic coast of North America. The French had secured foothold in Canada and established what was to all appearance a permanent settlement; for they were able to maintain their position until the close of the French war, which began in the year 1754. Other attempts had been made by them, but without success. Along with their settlement in Canada will be remembered their immense claims in the valley of the Mississippi which were extinguished by purchase by the United States in 1803. Also they had attempted a settlement in Carolina and another in Florida after the middle of the sixteenth century, but both of these came to nothing,—that in Florida having been exterminated by the Spaniards, as they avowed, because of religious hatred. The Spaniards also settled St. Augustine in the year 1565, though almost all their activity was confined to the region about the Gulf of Mexico and on the Pacific coast. Spain was exceedingly jealous of any nations making settlements in America, all of which she called her own by right of prior discovery and the gift of the Pope;



but by the treaty of Madrid in the year 1670 between England and Spain the territories of each were finally determined.

England herself, however, made various efforts at colonization before she finally succeeded. One attempt was made in 1583 by Sir Humphrey Gilbert on the island of Newfoundland, but failed, and the effort to colonize was for the time abandoned. Another was made, under the patronage of Queen Elizabeth, by Sir Walter Raleigh in 1584 on Roanoke Island, but this also failed. Other attempts were made, but with no permanent results, till the charter granted by James the First to Sir Thomas Gates and others in the year 1606. It is interesting to note how generous the king was, as the lands bestowed by this charter extended from the thirty-fourth to the forty-fifth degrees of latitude, which cover the whole territory between Cape Fear and the southern border of North Carolina on the south and the northern boundary of Vermont. This was the original grant, though the king and his successors afterwards assumed the prerogative of giving lands and taking them back again to bestow on other favorites; and so this territory came to be divided up at last between various individuals.

The Dutch, however, did not by any means feel disposed to accept the claims the English crown made of exclusive right to this part of North America, and so in 1609 they sent out an expedition, which, entering the Hudson river, took possession of the country and established a colony. They also made settlements on the Delaware. Afterwards, during the war in the reign of Charles the Second their settlements fell into the hands

of the English. The Dutch again for a while recovered the territory, but finally in 1673 the whole became an English possession. Charles granted it to his brother James the Duke of York, from whom the name of the colony on the Hudson was derived.

A part of the New York of that time was New Jersey. This James sold off as private property to various private gentlemen, who again, in their turn, sold it to others. I make this point because I want to emphasize what we would now regard as a very peculiar thing. The whole territory of the province of Maryland, say, was the private property of a private English gentleman, given to him, his heirs and assigns, an entailed estate, descending like any other from father to son. The people under the charter had certain privileges, and they had certain rights in the soil, theirs either by purchase or by gift of the proprietor. But by the charter all the land was given to the proprietor, and he might alienate it in whole or in parcels. The jurisdiction also, the power to propose and to veto laws, the power to appoint the chief executive and other officers, also belonged to him, and descended from father to son. In the case of the Jerseys, even jurisdiction was alienated, that is, the proprietors sold out the right of governing, an analogous case to which was found in Maryland, where, in the failure of legal heirs, the province was conveyed by will to Henry Harford, the natural son of the former proprietor. As it was, the emoluments of the province of Maryland were so extensive that, while there was a legal heir, there was no desire to sell. Such a state of things, however natural they appeared in that day when feudal notions still lingered in the popular mind, seems strange and very unnatural to us.

There is no country probably, even of Europe (except possibly Russia, whose condition is to us an anachronism), where the alienable proprietary government of a province would be now accepted as legitimate; yet in the colonial period of America, scarcely more than one hundred years ago, the thing seemed normal.

According to the accepted principles of that day, all such foreign territory as was obtained by conquest belonged to the crown, and of his own free and independent will and pleasure the king bestowed it on whom he would. It was a figment of the law, and went back to the time when the strongest among a body of feudal lords would lead his followers into some new country, and having conquered it, would parcel out the domain, either as a reward or to secure a following, to such of his knights and barons as he felt could be relied on. There had been no raising of an army, no leading of mailed legions in respect of America. At most there had been a few dollars spent on the equipment of a ship or two, and small ones at that, and that out of moneys obtained from the people; but all that was seen or imagined of the new country was declared to be the king's by conquest. And then he would give it to whom he would, with the right of jurisdiction to nominate or even to make laws, to appoint officers or to rule by oneself, to derive taxes and duties, as well as to sell the land to whom he would, and even, as we have seen, to transfer these prerogatives of sovereignty to some one else for a consideration, however unworthy that one might be, however unfitted for his office and duties, however personally offensive to the people over whom he purchased the right to rule.

To our minds it was a strange state of things, but for some time the strangeness was not recognized. All the time, also, the provincials were called English subjects, entitled to all the privileges and rights of Englishmen. From time immemorial an English subject had been protected from the arbitrary rule of the sovereign by the Parliament, whose voice was necessary for the making of laws and for the imposition of taxes. But according to the royal notions in respect of parceling out the extensive foreign territory, Parliament had no voice at all. Everything was in the hands and power of the king. By his charters he prescribed what prerogatives should belong to the proprietary and what should be extended to the people, and in some instances, in royal colonies, an independent monarchical power was exercised by the governors, as in Virginia in 1618, when the deputy governor published a number of edicts as of his own supreme will. The fullness of his supremacy, as he understood it, is indicated by the character of the edicts, which were such as these: That merchandise should be sold at an advance of twenty-five in the hundred; that tobacco should be taken in payment of debts at three shillings a pound, under penalty of three years' servitude; that no one should privately traffic with the Indians, or teach them to use firearms, under pain of death to teacher and scholar; that no one should hunt deer or hogs without the governor's leave; that no one should shoot (except in necessary self-defense) till a new supply of ammunition should arrive, on pain of a year's personal service; that no one should go on board the ships at Jamestown without the governor's leave; that every one should go to church Sundays and holy days, on pain of penal service

during the following week; for second offense the penalty was the same penal service for a month, and for the third for a year and a day.

This was prerogative of the direst kind, and of course such extreme presumption could last but a short time. The first James and the first Charles, however, had very extreme notions of prerogative; and in bestowing, of their free grace and bounty, immense territories on their favorites they had but little thought of the rights of the people. As late as 1638, Governor Harvey, of Virginia, exercised even tyrannical jurisdiction.

Prerogative, however, was the rule of the day wherever it could be exercised, and it will be seen how that, though Lord Baltimore's charter required the calling of assemblies of the people, yet the people themselves had to contend, in the beginning, against the assumption under the charter that the initiative of all laws should proceed from the proprietary. They insisted that when a law was felt to be necessary they should have the power of passing it subject to the veto, and that they should not have to wait till the law was submitted by the proprietary for their consideration. You will all doubtless recollect that it was this very question of prerogative and the attempted exercise of it, that brought on in England the civil war that ended with the death of the king and the overthrow of the monarchy.

As regards the colonies, the parliament at last came to assert its right and to question and restrict the royal claims to exclusive jurisdiction. Parliamentary control was asserted over the colonies, laws of trade and shipping acts were passed, and later, in the times immediately preceding the American Revolution, and leading to it, the

stamp act and taxes on various articles were imposed, for the purpose of raising a revenue for the weighty burdens of the home government. A charter was a law bestowing certain privileges and rights upon an English subject, and parliament came at last to deny to royal authority alone the power of enacting such a law. It would, doubtless, never have been allowed had the value of the colonies been from the beginning understood; but the land lay so far away, the idea of revenue was so very remote, and so very few persons had any definite notions of what the colonies were capable of becoming, that while prerogative in English affairs was reprobated, as applied to America it was a matter of indifference; and if the king chose to sport the kingly gift he could be left to his amusement. It was this to James the First, who among all the many occasions of showing his vanity, embraced this, and strove to prove himself an excellent statesman and lawmaker for the new communities he was fostering into life.

## SECOND LECTURE.

### COMPARISON OF CHARTERS.

To-day we will consider the various colonial charters, comparing them with each other and with that of Maryland. This will show out various fundamental characteristics of the times when these were given, and will also indicate a certain progress in thought and in the apprehension of civil and religious liberty; for the period from the first Virginia charter to that for Georgia extends over a good deal more than a hundred years, during which great questions were agitated, and the human mind was advancing towards a clearer sense of what constituted human rights and liberty.

These, as we have seen, were by royal grant, and all ran in the name of the king, on the ground that all such territories as were held by right of discovery, belonged to the king. Those to whom the charters were granted, however, were compelled to be at their own charges in securing their settlements, and as in the beginning the majority of those who were willing to leave their homes and the security of English life for the insecurity and exposure of the wilderness, as well as for the long and doubtful sea voyage, as it was then, were poor men, the expense to those sending them out was necessarily very great. For besides the charges of the outward voyage, cost of vessels, etc., provision had necessarily to be made for the support of the colony until crops could be planted

and matured, as well as for all the other incidental costs of building, clearing up lands, placating the natives. The expenses were very great, and the failure to meet them, and to make provision for the many necessary demands that must arise, was the cause of various failures among the early adventurers.

Lord Baltimore, who had learned experience by his father's attempts in Newfoundland, and by his association with the Virginia Company, spent, we are told, forty thousand pounds sterling in getting his colony firmly and definitely started; a venture that very few would have felt themselves justified in making even if they had the ability. Colonization by the English was a new thing, and for its success required boldness as well as large resources. Besides, Lord Baltimore, being the sole grantee of the charter, was not hampered by a multitude of counsellors, among whom there will always be some doubtful and timid spirits, and some who, if not doubtful and timid, can always find some reason for questioning every proposition. Doubtless one great cause why Maryland and Pennsylvania succeeded so well, was that in each case one man was at the head of affairs, and so all rivalry and jealousy in the source of administration, were avoided.

Again, the charters differed very greatly one from the other, not only in respect of whether they were granted to one person or many, but also radically as to character, and as to the prerogatives, greater or less, which were bestowed by them. There were charters creating royal colonies, for instance, in which the great power of oversight was retained by the king. And even here, also, there was great difference; for while in some instances,



as later in Virginia, and when Maryland was for a while withdrawn from the jurisdiction of the Lords Baltimore, the governor was appointed by the king and held only of the king; in other cases, as in the first charters of Virginia, the council (to which the regulation of affairs in the colony was entrusted, and which could itself be appointed and removed by the king) had the power of appointing the governor and other officers. Of these councils for Virginia there were two,—one in England and the other in the colony; and according to the charter, “the laws, ordinances and instructions” that were to guide them, were to be such as shall in that behalf be given and signed by the king’s hand and sign-manual, and pass under the privy seal of the realm of England.

Again, also, in a royal colony all laws passed by the colonial assembly (for such a body came soon to be recognized as essential in every colony) were transmitted to the king for his approval; while in other cases, as in the proprietary government of Maryland, the king was not known, but the right to confirm or veto was in the proprietor. In the year 1620 a new charter was granted for New England, as it came now to be called, which was conferred upon “the council established at Plymouth for the planting, ruling, ordering, and governing of New England; according to which the council was to make and revoke governors, officers and ministers, also to make, ordain, establish all manner of orders, laws, directions, instructions, forms, ceremonies of government of said colony, only that the same be not contrary to the laws and statutes of this our realm of England.” The governor was also empowered to exercise martial law upon emergency.

When, however, the Brownists, coming from Holland, settled at New Plymouth in 1620, they did so without a charter,—squatters, as they would be defined in these days,—and consequently were able to enjoy in a very high degree self-government, electing their officers, passing their own laws, regulating their own affairs. Later on, when they had grown to power, and were often disposed to show towards the government at home the independence that made up so large a part of their character, their power was restricted, governors were sent from England, and they were watched with a jealous eye. Such royal control was also exercised over the other New England colonies. This was, however, only in the reigns of Charles the Second and James the Second; for during the civil war and the commonwealth, which covered so large a part of the earlier period of the colonies, the New England colonies were too much in sympathy with the parliamentary cause to apprehend any restriction of privileges.

The proprietary colonies differed from the royal in this, that the whole territory was passed over by the king to one or more individuals, the only recognition of the royal right reserved being a nominal rent; as, for instance, in the case of Avalon, a white horse, whenever the king should demand it in person within the province; which was in every sense nominal,—a king of England visiting the cold shores of Newfoundland being hardly conceivable as a possibility. In the charter of Maryland the recognition of the king's right was the presentation of two arrow-heads, to be delivered at Windsor annually. In the beginning, at any rate, Lord Baltimore was careful to make this delivery, as the

receipts among his papers show. A notable case of this kind of colony was that of the Carolinas, given by Charles the Second in the year 1663 to various courtiers. This territory was made a province by the fifth clause of the charter, and the consideration was the more substantial but insignificant payment of twenty marks lawful money. In Georgia, however, whose charter was bestowed in 1732, the king required that four shillings be paid him and his successors for every hundred acres settled, the payment to commence ten years after the establishment of the colony. According to all the charters, however, the king reserved to himself a certain portion, one-fourth or one-fifth, of the gold and silver ore found in the colony. This was also the case, as you will recollect, in the Spanish colonies; for the planting of colonies always filled the mind of the royal giver with expectations of filling his empty coffers, for kingly coffers were as apt to get empty as those of other people. In the case of the Spaniards, as we know, that hope was attained in a marvelous degree. The same cannot be said of the English colonies, though they did something infinitely better: they developed, both in themselves and in England, a commercial activity and enterprise that stimulated the best energies of human nature, by which they became able to reap rich harvests of gold from all the earth.

These proprietary charters were very much alike, though when the time came to make some of the later ones the grants were not so generous as they had been before their value was fully understood. When we reach Lord Baltimore's charter we can analyze, and in that way understand more fully, the meaning of the name

given them. All that need be dwelt upon at this point is the distinction between the royal and proprietary colonies; in the former, as we have seen, the king retaining within his prerogative a large amount of direction and jurisdiction, while in the latter the proprietary is the highest officer. King James, for instance, when he granted the charter to the two Virginia companies, himself prepared a whole body of laws and transmitted them, while the proprietaries could either submit laws to the Assembly of the people for their approval, or could establish a law when it had passed the Assembly. In the case of Pennsylvania, in 1681, this proprietary prerogative was farther limited by the requirement that all laws should be submitted within four years to the English Privy Council.

The charters also provided for emergencies by giving to the proprietaries, by themselves or their executive officers, from time to time to make and ordain fit and wholesome orders and ordinances, which ordinances "we do by these presents straightly charge and command to be inviolably observed within the province, under the penalties therein expressed, so that such ordinances be reasonable and not repugnant to the laws and statutes of the Kingdom of England." It is to be observed here that the writ of Habeas Corpus, by which personal safety is secured to every one against arbitrary arrest, was not extended to the colonies till the reign of Queen Anne. Possibly the constitutional principle had been recognized all the way along, as it had been in England since the day of Magna Charta. The act, however, of the thirty-first year of Charles the Second, which gave the principle definite form and substance, was not ex-

tended to the colonies till the time given. No better protection has ever been devised for the citizen than the law extending this right of investigation; for under it any one could demand to know the reasons of his arrest, with such an amount of preliminary investigation as to show reasonable ground for suspicion and indictment.

The reason why Charles the Second, in granting the charter to William Penn, limited his prerogative by reserving to the Privy Council the right of reviewing all laws passed in the colony, was that after his restoration in 1660 New England had indicated an independent spirit, and the claim of a right to control her own affairs, which could not but gall one who felt that all the domain of America belonged to him, and was held only by his grace and that of his fathers. In fact, there was always present in the colonies a certain conflict between two great and powerful principles, the one being the absolute power of the king, the other the freedom of the subject. This was a conflict that had begun definitely in England during the reign of Elizabeth, or rather was definitely renewed in her day. For it had begun and been to some degree settled in the fourteenth century; only the long and terrible wars between the houses of York and Lancaster, that desolated the land and reduced the strength of the nobles and the people, had prepared the way for the absolute power that was exercised during the reigns of Henry the Seventh and his immediate successors.

By the days of Elizabeth, however, the people had recovered some of their old prosperity, and, with it, their spirit; not the nobility, but the people, for feudalism was practically dead, and power had passed into the

hands of the people. These principles were in conflict all along through the colonial period, and as they had brought about the Great Rebellion in England, so there was a constant protest in the colonies, a protest that grew more and more pronounced, until the long struggle ended in, as it had trained the colonies for, national independence. Even in the charter of New York, granted to the Duke of York, afterwards James the Second, by his brother Charles, we find the jealousy of colonial independence manifested, for in some respects the duke's privileges were inferior even to those granted to other proprietaries.

There are certain things common to many of the charters which it would be well for us to remember, among them the privilege of removal granted to those who desired to go into the colonies. We are so accustomed to the right of changing our abode, going to any foreign land, or to any part of our own land, that we cannot understand readily the denial or limitation of this right as it existed in the days when charters were given. For among the privileges granted by these is this, that persons so desiring should be free to go over to the colonies to make their homes there. And this was because of an old law of the reign of Elizabeth, according to which "if any subject or denizen shall depart the realm without license under the great seal, he shall forfeit his personal estate and lose the profits of his land during his life." The liberty granted, therefore, was very necessary, being only a relaxation of the law in behalf of the colonies. Even within the kingdom itself free passage was not allowed from place to place, but license had to be obtained. Though all of this survives in some parts

of Europe to-day, most notably in Russia, where every one belongs to some commune, to which he may be returned wherever he may be found within any part of the great empire.

This restriction of personal freedom was seen in a most oppressive form in the charter of Virginia in the year 1612, one clause of which was that certain persons having returned from Virginia and given an evil report of the condition of things there, the king granted power to the home council "to apprehend and bind over with good sureties, or else to remand and send back the said offenders to the said colony of Virginia, there to be proceeded against and punished as governor, deputy, or council there, for the time being, shall think meet." We should think it a strange thing if any one coming back from our western country, or from Alaska, and bringing a report of disappointment and distress, should be arrested and bound over to keep silent, or else be sent back again, to be dealt with by those who had every private and selfish reason for making the world believe that all was encouraging. But private rights, as we know them, were not known in 1612.

Another privilege granted, which is also common to the charters, is that of transmitting goods into the colonies and of shipping from the colonies any productions. But this latter was subject to conditions. For it was a universal law that the home country possessed the monopoly of the trade of the colonies, and no ships of other nations were allowed to trade directly with them. And nothing was watched more jealously than this. Goods from the colonies did reach other countries, but they had first to be shipped to England, Scotland or Ireland,

and then afterwards to be reshipped to any other port. By this means the English agents of the colonists reaped a heavy commission, and the necessity arose that all goods from whatever country should first pass through the hands of British or Irish merchants. It will be remembered how Massachusetts repudiated this right of English interference with her trade, and by all possible and sometimes absurd excuses, sought to extenuate her notorious violations of the law. For Massachusetts was always at the forefront of protest against British pretensions.

In the matter of the legislative power of the people, and their right to determine what laws should bind them, we find a good deal of interest, from the fact that the Stuart kings by no means looked upon the exercise of this right by the people with pleasure, and called their representatives together in parliament as seldom as their own needs would allow. For at that day it was different from what it is now, for the people did not govern the realm, but only came together to assist the king to do it, whenever he called them, and this was only so often as he needed money, which he could not get without them. It will be remembered that it was King Charles' effort to get money without the people's consent that aroused Hampden, and with Hampden the whole English world, and precipitated the civil war, and overthrew the monarchy, and compassed the death of the king.

But in the colonial charters provision soon came to be made for the assembling of the people or their representatives, and the requirement that no law should be of force without their consent. In the first grant to the Virginia Company no such provision was made. The



king made the laws and the council provided for the government under them. In 1621, however, two houses of assembly were created in Virginia,—one appointed by the treasurer and council of the Company, the other composed of the governor, local council and two burgesses to be chosen by the inhabitants of any town, hundred or settlement. The governor was to have a veto of the laws passed; while also, accepted by him, they had to be further approved and confirmed by the general court in England. Again, however, it was provided that no order of the general court could bind the colony till it was assented to by the colonial assembly.

Provision for such assembly by the charters became the rule from that time out. The charter for Avalon, for instance, granted to Lord Baltimore in 1623, before he changed his religion and ceased to be Secretary of State, provided that the freeholders were to be assembled for the making of laws for the province, the condition given being that the laws should not be repugnant or contrary, but as near as conveniently may be, agreeable to the laws and statutes of England. Lord Baltimore, who was one of the most astute and observant men of his day, saw the necessity, and had the provision incorporated. And again, when his second charter was given, that for Maryland, the same clause was inserted. How far it was only policy and how far it was the fruit of a broad and liberal spirit, we do not know. We only know that when the colony had been planted, and its administration became a practical problem, his son, on whom the world has been delighted to lavish its praise, attempted so far to limit the privilege of the assembly as to claim the sole initiative in the making of laws. This

the people rejected, however, and proceeded to consider the laws as of their own suggestion, a claim and prerogative which his lordship was afterwards constrained to allow. The right of initiative was recognized as belonging to both parties equally. Before a law could become finally and completely part of the code of the province it had not only to pass the assembly in both its houses, but also to receive the approval of the governor in the colony and afterwards of the proprietor. It went into effect, however, upon its approval by the governor, so that sometimes the anomaly was seen that a law was in force and business carried on in the colony under it, when in fact it was no law and was finally rejected by the proprietor. There was of necessity a good deal of *de facto* and not *de jure* government under such circumstances.

Another notable peculiarity to be observed, is the reference made to extending the Christian religion, as being one of the purposes of sending out the colony,—“Enlarging the extent of the Christian world,” as the charter of Avalon has it. Also the charter of Massachusetts Bay of 1629 declares that converting the natives is the principal end of the royal intention and of the adventurers’ free profession in the establishment of the plantation. The charter for Maryland also contained the same. How far such clauses are to be pushed, is questionable, though we do know that whatever may have been the intention either of the grantor or of the grantee under the charter, efforts were made by godly, earnest men to carry the word of God to the inhabitants of the wilderness. The bitter spirit that was excited in the Indians soon hindered in many places the zeal of the

missionaries, a bitterness created by the injustice and brutality with which they were treated; yet to the very utmost of their power, often preceding the trader and the explorer, devoted men pursued their purpose even to remote districts. This was the case not only in the English colonies, but also in Canada, the account of their efforts often reading more like a romance than like sober and sometimes painful reality. The account we have from Father Andrew White of his own work and that of his colleagues in Maryland, cannot but fill us with admiration for the single-mindedness and purity of intention of his earnest soul.

Another point of interest is the taxation of the people. The colonies were subjected to various custom charges, port dues, etc., from which there was no appeal. In the case of the Carolina charter of 1663 free trade was allowed with England, Scotland and Ireland for seven years, after which customs and dues were to be paid; but in the earlier charters there were no charges for shipments to England, but only when the same goods were reshipped to some foreign port, when they had to pay the same duties as were paid upon any other goods. A singular exemption was allowed by the charter for Avalon, as the products of the colony were to be relieved even of this burden for a period of ten years; but upon person, goods, chattels, tenements, lands, no taxes could be levied save by and with the consent of the representatives of the people. The king relinquished any right he thought himself possessed of, and he provided by the charters that the proprietaries should not exercise any such right. It certainly promoted the peace of the colonies that that was fixed and determined, for there

was none of the proprietaries that was not soon made to feel that the people knew and were determined to exercise, all the rights and privileges of English citizens and subjects.

The question of religion, also, as it is suggested by the various charters, may very well be touched upon here. I have spoken of the claim that the grantees were influenced by a desire to extend the blessings of the Christian religion to the Indians. But I refer in this place to the regulations concerning religion that were contained in the charters, the assurance and limitation of privileges, as bearing upon the residents of the province. This was a matter of the first concern, for one of the most powerful causes for impelling men to leave their homes and seek a retreat in the colonies was the desire to enjoy freedom of conscience and of worship.

The Virginia colony was from the beginning under Church of England influences, and we have seen how, with a high hand, the deputy governor, in 1618, issued his injunctions that every one should go to church on Sundays and holy days, and that the penalty of refusing to do so was compulsory labor. The church was part and parcel of the very existence of things, church and state being so close together that no defining line could be drawn between them. In the charter granted to Sir Geo. Calvert for Avalon, which was before he changed his religion, there was given him the advowson of all churches to be erected in the province; that is, the right to appoint ministers, it being of the very sentiment of England that churches should be built, and that the patronage or right of appointment should be vested in some individual.

In England various persons have this right; sometimes official as where the Lord Chancellor has many churches in his gift; or the faculty of the learned colleges; or some of the church dignitaries, as the Bishops; or private individuals, as when a church has been built upon a private estate. And so when a title to the province was given to Calvert, both as proprietor of the soil and as possessing civil jurisdiction, this privilege was granted.

And so again in the charter for Maryland in 1632 we find the same. At this time Calvert had become Baron of Baltimore, and had avowed his conversion to the Roman religion. The fourth clause confers upon him the patronage and advowson of all the churches, together with license and faculty to build churches and to cause them to be dedicated and consecrated according to the ecclesiastical laws of the kingdom of England. Though Lord Baltimore had declared himself a Roman Catholic, the charter refused to recognize the fact, and treated him and insisted on his acting as a member of the established Church of England. It is true he never built churches or chapels, and none therefore were consecrated, and the function of patronage was never exercised. It was about the only one of the privileges of his charter that he did not exercise. It brought him no emolument, it might have been an expense to him, and it may have been against his conscience. Certain it is that the failure to make such provision for the great Protestant majority of his people, proved to him a great misfortune, as it was one of the chief causes of his loss of the administration of the province in the Protestant revolution, and with it a large part of his revenue that arose from the civil administration. Accepting the char-

ter with the fourth clause, he was bound not to neglect the spiritual needs of the people and not to appropriate all the revenues to his private use. Here let me observe that in speaking of Lord Baltimore I proceed upon the principle that "The king is dead, long live the king." When it is necessary to distinguish between the different individuals that bore the title I shall do so.

The charter of the Carolinas, granted in 1663, contained the same clause providing for the patronage of the churches and their dedication. In the charter for Pennsylvania, however, we find a difference; for in that there is a recognition that the grantee, Penn, was not of the faith of the Church of England; for the right was secured to any persons to the number of twenty, to petition the Bishop of London to send a minister to them, and he was to be such a one as the Bishop would approve, the king evidently fearing that Penn was not of a sufficiently tolerant spirit to induce him to extend the liberty of worship to all. The right of petition was to be exercised irrespective of the will or pleasure of Penn.

A strong contrast is presented between the religious spirit of New England and that of Georgia, suggesting the progress that had been made between the year 1620 and 1732; for while in New England the spirit of the time showed itself in repressing, as far as possible, religious liberty, and in the endeavor to hold state and church within the bonds of a narrow denominationalism,—the spirit of the times, I say, because then a persecuting spirit was abroad in almost the whole world,—in Georgia there was, from its foundation, a spirit of broader liberty, freedom of conscience to all, and the right of public worship to all except the Roman Catholics; who were

dreaded and repressed more for what were regarded as their dangerous political heresies than their erroneous religious creed. It took many years for Protestant England to become so conscious of her own power that she could despise and ignore those heresies.

## THIRD LECTURE.

### LORD BALTIMORE AND THE MARYLAND CHARTER.

Modern nations, like ancient ones, cultivate as far as possible the memory of their founders and of those who in the earlier days of their existence, glorified the state either by their virtue, their wisdom or their deeds. The ancient nations, it is true, losing the due balance between God and man, worshiped often these ancient heroes, exalting them to a second place among the divinities and paying them all reverence. And the great deeds and wise words of those who lived in the historical period were likewise handed on, by poet as well as historian, a halo gathered about them, glorifying what, may be, thousands of men in their own time would have said or done. Modern nations, it is true, do not so glorify their founders, there is no hero-worship; still every nation is proud of being able to point out illustrious men among the fathers of the state, or those who by wisdom and devotion, have promoted its welfare and honor. England has her Alfred of earlier days, her Henry the Fifth, her William Pitt; France has her Charlemagne, her Louis the Pious, her First Napoleon. America has not only her Washington, but the whole galaxy of wisdom and devotion that vindicated the manhood of the nation by the Declaration of Independence. Many of the separate States have their champions, men that guided the course of events in the earlier days or in the periods nearer our own.



And well it is for nations that it should be so, for such commemoration of the illustrious departed keeps alive the national love of the institutions of the State, makes men jealous of everything that can tarnish the honor or destroy the integrity of the State. Patriotism is something that has to be fostered. It may spring up spontaneously in the human heart, but unless it is cultivated, by keeping alive the memory of the honorable if not heroic past, it will die, choked out by the weeds of selfishness and self-indulgence, greed and ambition. There may be, even without patriotism, enough of courage preserved to call forth the efforts for the defense of the country; but patriotism,—the love of country, that fosters some of the highest virtues of the human heart, and without which a nation is on the decline of the plane that leads to hopeless disaster,—patriotism can only be kept alive by a recollection of the country's heroic antecedents, and of those who in the country's behalf pledged their lives and their sacred honor in its cause.

Now among the separate States of the Union that have and glory in a notable past, is Maryland. Somehow she has never made as much of her inheritance as some other States have, though in recent years she has become more zealous in searching into her records and presenting them to the world. I presume that one cause of her apathy in other days was that hers was a mixed community; that being a Border State, a very large portion of her people were not native, but came here chiefly for the sake of the many advantages which the State offered in its soil and location, for commercial and manufacturing enterprises. When the second volume of a most

excellent history never saw the light, because the first, on which the author had bestowed so much and such conscientious care and labor, the most worthy monument yet erected of the period it covered, was received with so little interest,—I speak of McMahon's history of Maryland,—when such was the fact, it shows at how low an ebb was the sentiment in Maryland in behalf of the honor of Maryland. There is a different state of things now, I grant, but it is altogether questionable how far the sentiment extends. It is one purpose of these lectures to endeavor to develop in the young men of Maryland a pride and love of the honorable old State.

Upon going back to the first days of the colony we find two men standing out in strong prominence, father and son, George and Cecilius Calvert, first and second Lords Baltimore. The common name, Lord Baltimore, seems to have caused a good deal of confusion, for Lord Baltimore has often been referred to as if the whole early history of the colony had been controlled and directed by one man; whereas, as regards the offices of father and son, they are as different as the lives and times of two men could possibly make them.

Of the first of these, the father, George Calvert, first Lord Baltimore, there is very little that can be said, and that little is neither good nor bad. For we do not know enough of the man, his thoughts, feelings, purposes, to give any very distinct portraiture of him. He was a loving husband and an enterprising man, and as a politician he was fairly consistent in his principles. But such things can probably be said of the largest part of the human family. Born about 1580, he in early manhood entered political life, filling various offices, includ-

ing that of principal Secretary of State and membership of the Privy Council. James the First honored him with many proofs of his confidence, which he attempted to justify, not only by a faithful performance of his various duties, but by standing forth as the advocate of the king's claims when questioned by parliament or people. George Calvert was a courtier in the strictest sense of the word, and was always as near the king as the king's favor could bring him. And doubtless he was fitted to be there, as a gentleman of education and excellent intelligence.

At the same time he was always providing for himself, but in an honorable way. Had there been any means of imputing evil conduct to him, doubtless it would have been done. For he was not a favorite with the weak king's favorite, and could he have been deprived of the king's favor, to get him out of the way, doubtless it would have been done.

But such qualities never make a hero, and George Lord Baltimore was not a hero. He had always an eye to business, so that there was hardly a foreign enterprise prosecuted in which he had not an interest, colonization being a specialty with him. He was one of the original associates of the Virginia Company, and continued so till 1620. In 1609 and 1614 he put money in the East India Company. In 1622 he was a member of the New England Company. In 1620 he bought an extensive plantation in Newfoundland, and in 1623 he secured a charter for this, creating it a province, and giving him almost royal honors and prerogatives. Avalon, however, failing him in his expectations, he secured from King Charles the gift of a section of Virginia, extending

also into North Carolina, and called Carolana; but finding he would have trouble in securing the actual possession he relinquished it. And then in the year 1632 we find him obtaining the province of Maryland, though dying before the gift was finally completed. Also in the year 1621 the king granted him twenty-three hundred acres of land in Ireland, which he endeavored to colonize.

All these transactions indicate that he was a man of great enterprise and business intelligence, and judging from the amounts he and his son claimed to have spent upon Avalon and Maryland, about forty-six thousand pounds sterling, he must have been very successful in the various enterprises in which he was interested.

But all these things do not make a hero. Sometimes it is claimed he sought to establish a colony in Maryland as a refuge for the members of his church and religious faith who were denied freedom of religious worship in their own country; that that was the purpose he had in view. And the attempt has been made on this account to glorify him and to lift him up above the narrow views and unworthy contentions that belittled the whole religious mind of that day. But for over twenty years right along, from the foundation of the second Virginia Company in 1609, he had been engaged in this very business of colonization. Also in 1620 he bought estates, as we have seen, for which he secured a patent in 1623, a year and more before he avowed any change in religion, and yet the charters of both are nearly identical, evidently drawn by the same hand, and that probably his own. He was a great speculator on a large scale; Virginia, New England, India, Newfoundland, Carolana, and Maryland, as well as Ireland, being the fields of

his operations. But he was wiser or more fortunate than some speculators, because, though he did not live to reap the fruits of his ventures, his children and his heirs did; for their patrimony in Maryland proved a splendid source of revenue. George Calvert was not of the stuff out of which heroes are made.

As to his change of religious views, we are sometimes told that he made it at a great sacrifice. But I do not suppose that any one would be more disposed to smile at such an assertion than Calvert himself. No one questions his sincerity, for it required great sincerity to avow a change of religion from that of the established to that of the Roman faith, which was then so severely under the popular ban. Politics ran high, and religion was part of the national sentiment. Politics and religion were inseparably united, not only because religion was established, but because of the claims which on both the royal and Roman Catholic sides, the rulers put forth. The kings of England, for instance, claimed supremacy in religious matters, and in the king and parliament was the power of passing laws for the government of the church. The great dignitaries of the church also were appointed by the king, while in the House of Lords, at that time far more influential than now as a constituent body of the realm, the Bishops had their place. It is well known how the royal and state authority in religion passed down all the way through all the ranks of the people.

On the other hand, we know what were the claims of the Pope,—to unmake kings, to absolve their people from their allegiance, to possess supreme jurisdiction everywhere. And these contrary claims caused in Eng-

land the most violent contentions, so that the minority were placed severely under the ban, and every one professing the unpopular religion, was declared incapable of holding any office. The oaths of office were so searching that no Roman Catholic could, without deliberate perjury, take them.

When, therefore, George Lord Baltimore avowed in 1624 his change of faith from that of the established church, he proved his sincerity. When he changed his creed he ran great risk of personal loss. How long before his avowal he had changed we do not know. We only know he chose a very opportune time for the avowal; for his popularity with the king had for some time been very much diminished, because the Duke of Buckingham had found Lord Baltimore standing in the way of his political schemes, chiefly the proposed French marriage for the Prince of Wales; and what the duke abhorred the king rejected. Now, however, both the duke and the king had turned a favoring look upon him, and at that moment, while the skies were propitious, the avowal was made, with the result that, unlike his predecessor in the same office, he was allowed to sell out his secretaryship for six thousand pounds sterling, he had the lordship conferred upon him, becoming Baron of Baltimore in Ireland, his fine estate in Ireland of twenty-three hundred acres was renewed to him, the oath of supremacy being waived, and he continued in possession of Avalon. His change of religion therefore cost him nothing, but was probably one of the most successful ventures he ever made; for beside the immediate emolument it brought him, it set him free to pursue those plans of empire beyond the sea on which his mind had

for years been set, and from which he hoped and his heirs derived, such large reward.

When, however, we turn to Cecilius Calvert we find one whose wisdom was shown to be great by his founding and administration of, the province of Maryland. The foundation of Maryland was made in troublous times, when both the religious and political currents were running wildly through all English life, and not only in England, but on the Continent as well. You will recollect that at this time the Thirty Years' War was going on, having begun in 1618, a war that involved all Europe, and in which not only religious antagonisms existed, but political ambition as well. For while the war began as a reaction from the Reformation of the century before, yet soon the questions of territory, the seizing upon the spoils of war, entered in, and in the course of it all Europe was devastated. The connection between the kingdoms on the Continent and England was not as immediate and as sensitive then as now, yet not only for political and religious reasons was the feeling of the English people aroused, but also for family reasons, the daughter of James the First being the wife of Elector Palatine, the elected king of Bohemia, who was one of the chief victims and sufferers of the war.

The times were troubled also in England, for it was during this period that the people of England began to assert strongly the rights of English freemen as against the claims of royal prerogative and arbitrary government. The contest began back in Queen Elizabeth's day, the Commons from time to time indicating their will in such a way that the queen saw it was wisdom to acquiesce. But in the days of James, for whom as a Scotchman

and a foreigner the people had no hereditary love, and who had no shining qualities to constrain their admiration or forbearance, the voice of the people became more distinct and emphatic. And when Charles the First came to the throne in 1625 the position was as advanced as the voice was pronounced and clear. As I am not writing English history, however, I must not go into detail. Only you will recollect that, after contentions in parliament and then a long cessation of parliament, the king attempting to rule without it, and the attempt also by the king to provide for the public necessities by the seizure of private property without the sanction of law, and then the calling of the Long Parliament which would not be dissolved,—you will recollect, I say, that after all this came the civil war, and the beheading of the king in the beginning of the year 1649. The times were troubled.

Along with the religious agitation of the time there was the religious as well, for religion and politics were strongly blended. Through generations there had been scarcely a distinction between them. The king had been at the head of the church in temporal things, and the ministers of the church, especially the Bishops, had filled many offices in the temporal administration of the kingdom. And this was the case, not only in England, but everywhere. Beside this, religious malignity was shown, owing to certain claims to political and temporal power which were put forth in the name of religion; so that the agitation went on everywhere and involved the strongest emotions.

Now it was in the midst of such commotions as these that Cecilius, the second Lord Baltimore, began and



prosecuted his enterprise. His father had died in 1632, having before his death secured the promise of the grant of Maryland. The report is the king only hesitated to grant it from a desire to retain Lord Baltimore near himself, having need of the services of a tried and experienced statesman and diplomatist. To prosecute the enterprise required all the wisdom of which a man might seem capable. He was of the unpopular side in religion, around every member of which there existed the suspicion that he was a traitor and capable of betraying the state. His father had been a convert, and probably he also, for we do not know enough concerning the inner life of the family to know when or why they changed their faith. There is contemporary evidence to show that there was a good deal of apparent vacillation in the father before his convictions became established. As early as 1620 he was suspected to be "popishly affected," and by others it was supposed he had always been inclined that way. One contemporary writer states that he had three different times avowed his change of faith. Probably, however, it was only his association with the proposed Spanish match, which he earnestly championed, that caused such imputations. But converts, we know, excite more suspicion and enmity than those born to the faith. The father and consequently the whole family, were associated with the court, and so had become identified in the minds of the people with the extreme, arbitrary views of the king and court, identification justified by the whole course of the father while he was in office.

And yet though these were his circumstances, and he but twenty-six years old when the inheritance fell to him,

we find Cecilius conducting his affairs with a good judgment and wise policy that brought him through every trouble and enabled him to hold his own, or if for a while deprived of it by the temporary success of his enemies, to recover it again and hand it on to his successor, a strong, vigorous, growing, wealthy colony. Such skill and such success demonstrate the man. When also we remember that it was not only troubles without, but troubles within, that he had a mixed multitude to govern as well as to conciliate, a multitude composed of all classes and conditions of life, in part the high-toned and spirited, jealous of individual rights and dignity, and in part the very refuse of England, with those of every intervening condition; when we remember also that he had the members of his own church to restrain, lest they should succeed in their claims, which would have crushed down his own rights, as well as excited tumult among the colonists; when we remember the bigotry of the same class of refugees who had set England on fire, and who now settled in Maryland, having been expelled from Virginia, and who had to inflame them the sense that they were martyrs for their faith, that they held the truth and no one else did, and that the Lord had blessed their cause in England by the overthrow of all their enemies,—when we remember all this, and yet see how successfully he conducted his whole administration through forty-three years, we cannot but be struck with the wisdom of the man.

All the glory belongs to him and not to his father. He was a man of eminent policy if not of wisdom. Though never a friend to the people of England, but only a useful member of the court, he pursued his way

so cleverly that when the evil day came and the favor of the court was so far withdrawn that he had no reason to foster further hopes, he was able to retire well laden with both the honors and the substantial rewards of service, a very wealthy man. To Cecilius belongs all the honor of the successful administration of Maryland. What may have been his motives is one thing, and we may not judge of other men's motives, but of his actions we may judge. His administration may have been one of policy and a shrewd recognition of the necessities of his position, or it may have been the genius of the high-toned statesman. Either thing could have determined his course in the way he took. The probabilities, however, are in his favor, for mere skill of policy is never consistent, and in time is almost certain to overreach itself to the ruin of all its schemes. As we have seen from first to last, Cecilius Lord Baltimore met with no such fate, but under king, under parliament, under commonwealth, and under restored kingdom, maintained or soon recovered his own.

The next thing that ought to occupy our attention, to proceed logically, is the charter under which the colony was sent to Maryland. As we have seen, George Calvert, the first Lord Baltimore, had been for many years connected with efforts at colonization, and as a practical man he had seen the difficulties and the failures that had attended them. He was, therefore, prepared, when he sought the charter for Avalon, to avoid those causes which had produced failure; and the charter for Maryland, which he secured nine years after, only proves how convinced he was that he had discovered the right means of success; for the charter for Maryland is almost identically the

same as that for Avalon, the differences being in minor features.

The great distinctive feature of both charters was that the whole gift was to one, and the whole administration placed in the hands of one. The earlier gifts by the crown had proven failures, because the intention of the grantees had not been to establish a colony, an empire, for the sake of the empire, in which the good of the people was to be looked to, and in which all laws and regulations should be such as would promote the permanent welfare of the people; but their intention had been to secure to themselves certain commercial advantages through trade with the natives; and when this was not achieved, or the expense was found too great, the charter was allowed to fall. Besides, instead of having one man at the head of affairs, and so a consistent administration, there was a council in England, and a council in the colony, each composed of many members, which must of necessity produce, either apathy from divided counsels, or else antagonism and jealousy.

Lord Baltimore avoided all this in both his charters. They were each given at a time when the heart of the king was warm to him; and to the king's mind such a territory even as Maryland was to be lightly esteemed,—a wilderness inhabited only by savages, if inhabited at all. The king also, either James or Charles, would have had no objection to granting such a charter, conveying such powers, for it was exactly the form of government that they thought was the best, and the form they would have secured for themselves at home had it been possible. For, first of all, there was the inherent and essential right of the absolute lord, which was the title granted by the

charter, and the title which the Lords Baltimore claimed and used all the way down. Their right was absolute, something which the people had not given and which they could not take away. Now-a-days for the king to attempt to confer such high-sounding phrases would be deemed absurd, but not so then; for, as we have seen, the king claimed the right, and it was allowed, of absolute control over all foreign territories gotten by discovery, or, as they said, by right of conquest. The king ruled by right divine, and not by act of Parliament. The kingdom belonged to him, and while it came to be that he could not exercise absolute power, though Henry the Seventh and his immediate successors did, over their home country, the rights of the people to the foreign dominions had not yet been perceived. To-day they are so well perceived, that if Queen Victoria were to attempt to bestow a hundred-acre farm in Africa or Australia by patent in virtue of any absolute right in British possessions there, the world would look on in amused astonishment.

But if he was made absolute lord, powers were given to make that title real. All the gifts under the charter were to run from father to son forever, not only title to the soil, but the powers of government. It was intended to be an hereditary monarchy, as much so as England itself, and, as will be remembered, it continued to be so till the family became extinct. There were intervals when they were deprived of the administration, but in each case restoration took place after a while.

Another feature in keeping with the royal mind of that day, was the privilege granted by the fourteenth section, of conferring favors, rewards, honors, and to adorn with titles and dignities. Lord Baltimore had gotten his two

titles of Knight and Baron from King James. It was a royal privilege. And so, when Charles would bestow his gift, he granted to the absolute lord he made the same privilege, only limiting that the titles and dignities conferred should not be the same with those of England. This same privilege was granted in other charters, and though there were some absurd titles proposed in North Carolina, yet it is astonishing that through the colonial period, with the fond infatuation that many have for that kind of honor, so very few, if any, such titles were conferred. Your Excellency, as associated with office; your Honor, as associated with the bench, with colonels, generals, doctors, scattered with no parsimonious hand, are about all the American mind has ever cared for.

The creating of manors also, with manorial rights, was provided for, the right cognate with the royal one of creating a province; with the right of the holder of the manor to set up court leet and court baron to regulate justice within his territory, to raise the hue and cry, that is, to summon the whole body of the people for the apprehension of an accused person. This was a feudal right, and to a small extent it was exercised. It was not, however, harmonious with the spirit of the colony and soon fell into disuse.

Another royal right conferred was that of proposing laws, the sixth clause of the charter running in this way: We grant to the same Baron, etc.: to ordain, make and enact laws, of what kind soever, of and with the advice, assent, and approbation of the free men of the same province, or of the greater part of them. Here the intention evidently was that the laws should proceed from the proprietary, who had the power to ordain, make and enact,

while the function and privilege granted to the free men were to assent to them. The people could originate nothing. They could refuse to accept, that was all. We can at once see what a vast attribute of tyranny was here claimed. The thousand things that in a body politic would have to be provided for, must be neglected until the lord proprietary should suggest a law covering them, and then the law would have to be such as suited him, and not such as the people might think best fitted for the need. In other words, he was the law-making power, and the people only had the veto, as if to-day the President of the United States, or the Governor of this State, should have the exclusive power to propose the laws, which the people must accept or else go without; an entire reversal of all our notions of the relative duties of ruler and people.

Lord Baltimore tried to carry out the terms of this clause when the people came together to legislate for the welfare of the colony, but he soon found that his scheme would not work; for the people refused to recognize his laws as proposed, and then proceeded to consider them as if originating with themselves. In this they established a precedent which Lord Baltimore saw it best to accept in his future administration. The power to propose laws became the equal power of both. The disastrous consequences of the attempted method would have been the greater because Cecilius Lord Baltimore was never in the colony, and his laws were sent over from England. One condition, however, was associated with the law-making power bestowed, "that the laws should be consonant to reason, and not repugnant or contrary, but so far as conveniently may be, agreeable to the laws, statutes, customs and rights of our kingdom of England."

The police power of providing for emergencies was also granted by the charter, even to the liberty of proclaiming martial law in the time of insurrection or rebellion.

One thing, however, was strongly insisted on all the time, that all the citizens of the colony were always to be regarded as being liege subjects of the king of England. The allegiance of the lord of the province might be indicated by a very simple and easy service, the presentation of two arrow-heads once a year, but with it went the duties as well as the rights and privileges of all the people as English subjects. What a battle was fought out on that line in the after-days of the colony! It was a most excellent principle on which to hang a claim; and that is what the people did, and contended for it till they had secured a victory. We shall see this further on.

Abundant provision was made for the emoluments of the proprietary. He claims to have spent forty thousand pounds sterling in establishing his province, and there is no reason to doubt that he did. How it could have been spent in or on the colony it would defy any attempt now to explain. For the whole outfit was insignificant, and the colony was composed of men who were capable of paying their own charges, for themselves and their servants, whose remuneration was received not in money, but in land. Probably far the greater part of this sum went into the pockets of courtiers who would use their influence in Lord Baltimore's behalf; for everything was bought and sold in that day, and courtiers were always needy; though possibly a very large sum may have gone into the coffers of the king himself, who was the most needy of them all. We know that when Charles the Second bestowed the charter of Pennsylvania upon William Penn, it was in



liquidation of certain claims against the state which Penn had inherited from his father. Charles the First, who held back from no means by which he could obtain money, would not have failed to avail himself of such an opportunity as the alienation of an extensive province. In all transfers there is very apt to be a consideration, even if it is not avowed. In this way we can see how the forty thousand pounds might have been spent in the founding of Maryland.

But Lord Baltimore's emoluments were abundant, and in time proved an excellent interest on his money. For by the charter the revenues of the province were to be his. Whatever export or import duties were levied were to be his; also all fines and forfeitures; also the proceeds of the quit-rents, or the yearly charges upon the land; for the lands bestowed by him upon immigrants were always subject to a yearly charge, made known in the conditions of plantation. These last amounted in the year 1770 to seven thousand five hundred pounds sterling, net, and with the revenue from other sources gave him a total sum of about twelve thousand pounds. In the earlier years of the colony, of course, the amount received was insignificant alongside of this, but then the people sometimes supplemented the small revenues by free gifts.

By the twentieth section the king went even farther than this. He pledged and bound himself and his heirs and successors, that at no time would they "impose or cause to be imposed, any impositions, customs, or other taxations, quotas or contributions whatsoever upon the residents or inhabitants of the province aforesaid, for their goods, lands, tenements, within the said province." All revenues from taxes, which were

to be imposed by the proprietary and people, were to be for the use of the proprietary and the good government of the colony. This, some of you will recollect, gave Maryland a fair ground, above all the other colonies, for protesting against any kind of imposition of taxes by the English government; for the exemption by the charter even went so far as to cover "goods and merchandise to be laden or unladen in any of the ports or harbors of the province." It is true, Parliament did not recognize or allow this right of the king to exempt any colony, but it belonged to the charter rights of Maryland, which had been acquiesced in by Parliament for over a hundred years. Maryland's position, therefore, when she refused the stamped paper, or when she destroyed the cargo of tea in Annapolis harbor, was a stronger one than that of any of the other colonies. In the colony of Georgia, when her charter was given, in 1732, the right of Parliament to levy taxes upon the people was distinctly asserted.

The charter was wonderfully drawn up. It created an empire within the empire. It gave most extensive functions to the head of the government. It made Maryland practically free of Great Britain from the beginning. It did not attempt to enjoy its full freedom, for often the people found it very convenient to limit the extensive prerogatives of the proprietary by claiming the rights and privileges of liege subjects of England. Still, the freedom was there, to be pleaded against England to restrain her presumptions when injustice or tyranny was attempted; and the spirit was fostered by it to restrain her own governors and officers, when under the charter their claims or exactions were in danger of becoming extravagant.

## FOURTH LECTURE.

### THE COMING OF THE COLONISTS.

“Maryland has always enjoyed the unrivaled honor of being the first colony which was erected into a province of the English empire and governed regularly by laws enacted in a provincial assembly.” These are the words of Chalmers, whose work on the American Colonies stands at the head, both as to time and value, of the standard authorities in the matter of the English settlements on the Atlantic coast. “The unrivaled honor of being the first colony erected into a province”; for a colony differs from a province, in that “colony” is a less exact term, indicating nothing more definite than a settlement, while a province implies a definite government, a fixed order. It is a section of the empire, and a part of it, while it possesses, subordinate to the empire, a certain independence of jurisdiction. We recollect the provinces of the Roman empire, over which there were placed consuls or other great officers of state, who, while the emperor could appoint them or remove them, could at the same time exercise the highest functions of government, military and civil, subject in certain cases to appeal. The province was part of the empire. The Greek colonies, however, were often merely the overflow of the parent state, sailing away, whether to Asia or to Italy, and becoming themselves a new state.

Of this class of colonies was Massachusetts, or to speak more correctly, the settlement at Plymouth, whose mem-

bers landed in America in 1620. They had formerly been a colony in Holland, but deprived in that gracious land of that stimulus that could alone excite their enthusiasm and devotion, persecution at the hands of those who did not hold with them, they came to America and settled, making their own laws, choosing their own officers, executing the functions of state as best pleased them. They would have been a colony in that sense if they had gone to the Pacific coast or found their home in the South seas. But Maryland was a province, a definite part of the empire. Other such provinces were afterwards created, but Maryland was the first.

This function of a province is expressed in the second clause of the quotation: "governed regularly by laws enacted in a provincial assembly." The earlier charters, as we have seen, did not provide for such assemblies, but a council, appointed by the king, made laws, or the people were governed by proclamation. The charter of Avalon did provide for the assembly of the freemen, but that was an abortive attempt and soon came to nothing. From the beginning, however, Maryland had her assemblies, who determined for themselves what laws should govern them, refusing to accept any that they did not approve, and intimating distinctly what they wished to have. It was this freedom of making laws for their own government, which came afterwards to be possessed and exercised by all the colonies, that fostered the spirit of freedom that at last demanded independence. Self-government went on, becoming more and more definite year after year, so that finally, in response to an attempt to exercise humiliating and undue control, the colonies, one and all, said, We will be entirely free. And Maryland first possessed this honor.

Let us now look at the province of Maryland as under the charter it was first intended to be. It was the first of all the colonies to have its boundaries definitely determined, and according to them it ought to be a great deal larger than it is now. For on the north it was to run with the fortieth degree of north latitude, and yet, if you will examine the map, you will find that that line will carry the state beyond Philadelphia. Again, on the west it was to be bounded by a north and south line to the farthest source of the Potomac; yet, if you will look, to-day you will see that a large section of the territory that is included within that line, belongs to West Virginia. Again following the farthest bank of the Potomac to the mouth of the river, the line was to pass across the bay and the eastern peninsula to the Atlantic ocean; but instead, the present line of division is to the north of that. Then the line was to run with the Atlantic and the Delaware bay and river back to the fortieth degree of north latitude; but within that region lies the State of Delaware. You see, therefore, how large a part of Maryland has been lost to it.

Why? Because other parties possessed greater skill and greater influence than Lord Baltimore did. As regards the large section of Pennsylvania that of right belonged to Maryland, it is to be said that neither Lord Baltimore nor William Penn knew about the boundaries of their two territories where the fortieth degree would run; and that afterwards, when it was discovered that Lord Baltimore's right, in virtue of prior grant, covered the territory above where Penn had fixed his city of brotherly love, it became an earnest and shrewd effort on Penn's part, by every conceivable subtlety of misrepresentation, to claim the region as far south as the present

boundary. Penn wanted for his colony the commercial advantages which would be furnished by the Delaware bay and river, and he and his sons, being of superior skill to Lord Baltimore and his son, got at last what they desired, though the long contention was not finally settled till the year 1760.

Penn's ambition, however, did not stop with desiring this large section on the north of Maryland. He soon came to yearn for Delaware as well. This was, as we have seen, a part of Maryland beyond all question; but it was lost to her through two pleas. The first of these was, that when Lord Baltimore got his charter it was expressly stipulated that the territory given should be found uncultivated, whereas it was said that Delaware was already occupied along its shores by the Dutch and Swedes, and that this invalidated his title. The other plea was, that the Dutch and Swedes having been permitted to continue and retain their settlements, without having been compelled to acknowledge Lord Baltimore as proprietor, it was a tacit acquiescence in their right, and that when they, along with New York, were reduced by the English, their settlement, as a dependency of the Dutch colony, passed to the Duke of York when that territory was bestowed upon him.

William Penn, in his desire for commercial advantages for his province, of course yearned for Delaware also, a yearning that James satisfied by passing it to him. Contentions arose, Lord Baltimore struggling to retain his own. In 1685, however, James being now king, the decision was given against Baltimore's right, and the present division of the peninsula between Delaware and Maryland took place. As to the claim that the Dutch and

Swedes occupied the territory, the fact that the English did not recognize their right but regarded them as interlopers, ought to have been a sufficient answer in law. The whole, however, was rather a question of influence and of private favor, than of law.

As to the loss of territory on the western part of the province, the question was in the beginning, which was the farthest source of the Potomac; for the geography of Maryland was then wholly undetermined. There was no distinct purpose of fraud, as in the other case, no evident intention to seize, through influence in high quarters, upon what belonged to another. According to the conditions of the charter, however, the south branch of the Potomac is the true line of division. The same also is true of the small bit of territory along the southern line, on the Eastern Shore.

The first body of immigrants that came to Maryland brought with it every assurance of success that the enterprise admitted of. Lord Baltimore himself did not come over, seeing it to be his interest to remain in England to guard his rights, which were sure to be assailed. But the men that did come possessed, as a body, every qualification that promised success. For, first of all, the company consisted in part of twenty "gentlemen," which meant men well born, of fair intelligence and some education. They were such men as in England would have exercised influence in their own communities. There may have been exceptions among them as regards some of these particulars, but that probably was the character of the principal body. Again, they were certainly men of enterprise; for everything indicates that they did not come out to America "to play the gentleman," or to discover gold and

silver mines, or to trade in a lucrative way with the Indians and to get rich suddenly; but they came over to take up land and work, and make Maryland their home. All their interests were to be in the colony. They were also men of some property, not merely bankrupts that came over to improve their fortunes. This is seen in the fact that they brought with them servants, for whose expenses of all kinds they had to provide, not only in the coming over, but also for the whole time that was to elapse till the first harvests could be gotten in. For it was not for Lord Baltimore to provide for the colony in these things. They were to be at their own expense and charges, and were to receive in compensation certain quantities of land, according to the number of servants introduced. This number in the first company that came was from six to ten to each "gentleman."

Observe, the servants here spoken of were not negroes, but white men, men that, wanting to come into the colony, and not having the means to pay their expenses, sold themselves for a term of years. There were negro slaves here from the foundation of the colony, but they were at first few in number, and these white men were doubtless often men of enterprise, and sometimes of as good birth and training as their masters. Only they were anxious to come to the province and had not the means necessary. For after they had worked out their time, they became freemen and were entitled for themselves and for their wives and children, to a certain portion of land, and so to become freeholders and exercise all the rights and privileges of the rest of the citizens.

Every quality, therefore, was found in the early colonists, intelligence, property, character, industry. These quali-



ties were demonstrated when the citizens were called together to pass upon the condition of the colony and to provide laws for its government. There was another class of immigrants that came in afterwards, who were far from being so desirable, criminals of various classes and degrees, whom England shipped from her own shores to plague her colonies. They either died out or reformed, and it is possible that some of the best blood of Maryland had its origin in that source; though it is none the worse for that. Possibly, also, through the influence of what scientific men call heredity, some of our great scamps and rascals are direct descendants of these same unwelcome importations. Certainly, there are found, sometimes in good society, families that have a taint of the blood, so that for generations past it has been true that no one of the name or connection has commanded public confidence. Later in the provincial history immigrants came into Maryland from many quarters, attracted by the liberal local institutions of the province, as well as by its generous naturalization laws and conditions of plantation.

Now, though Maryland had such a good start, and such a good proprietary and such a good local governor; for Lord Baltimore showed his sincere faith in the enterprise by sending his brother with the colony as governor; yet Maryland was not blessed for many years with peace, but contention followed contention right along for a long while. I do not speak of discussions and disputations, such as took place in the House of Assembly over the rights and privileges of the people. For such things were right and according to a law of nature. Public claims have to come on as a surging tide and beat down barriers. It is the only way in which such can be beaten down.

Tempests in houses of Parliament and in Congress, whether American, or English, or Continental, may frighten timid souls, but they are, by the law of nature, grand manifestations of the human spirit. A mighty, boiling, foaming human sea they may seem to be, but that is the way the ocean of human life is kept pure. And those who attempt to build barriers against such tempests prove their folly by the ruin that overtakes their works. So Charles the First demonstrated his folly, so George the Third demonstrated his, and so Louis the Sixteenth his. The great power in this world's affairs is not the right divine of kings, but the divine right of God's voice speaking by the people.

That is, therefore, not the kind of contentions I mean. Maryland had them all the way along, too, and our fathers of the state demonstrated their manhood in that way. But the contentions I mean were those great commotions in which the power and authority of the proprietary and his government were overthrown, and other power and authority set up in their stead. When Lord Baltimore's colony came into Maryland they had the misfortune to find that Kent Island, lying along the eastern shore of the bay, was already occupied by a number of persons—how many it is not known—who had settled there for convenience of trading with the Indians, with whom they were in frequent intercourse. This little community had come out from Virginia and held themselves to be of that colony. At the head of them was William Claiborne, a man of enterprise, intelligence and great pertinacity of character, who, deeming that his rights had been invaded by the Maryland charter, and that Kent Island belonged to Virginia, of which he was a councillor,

refused in every way to acknowledge the jurisdiction of Lord Baltimore. This was the beginning of a strife that lasted for twenty years.

First of all, there was some reason for believing that he had tampered with the Indians, because instead of continuing in their former friendly mind, they held aloof, refused to bring in provisions, and in other ways acted so suspiciously that the people stood in dread and felt compelled, for the sake of security, to build a block-house. Next, in the year 1635, matters came to an open rupture, and a naval battle was fought in the Pocomoke river, in which the small vessel belonging to Claiborne and manned with thirty men, which was out on a pirating expedition, was taken. A little while later another conflict took place, in which again Claiborne's force met with disaster. In the year 1644, however, he was more successful; for, having allied himself with Richard Ingle, who had formerly given some trouble in the province, he had the ability to drive Governor Calvert to take refuge in Virginia, and to hold the province for two years. This time he claimed to have the king's commission for his acts, but later, in 1652, when the royal power in England had been entirely overthrown, he received a commission from Parliament, under which he was able to reduce Maryland and deprive the proprietary of all control. These troubles, gratifying the spirit of revenge which he so strongly fostered, lasted still for several years, after which Claiborne disappeared from view.

It was during these troubles that the battle of the Severn was fought, in the year 1655. The occasion of the battle was this: When the parliamentary commissioners had reduced the colony to obedience, they retained

the then governor, Stone, he promising to conform, in his administration, to the new order of things. When, however, Lord Baltimore rebuked him for betraying the trust committed to him, and stimulated him to reassume authority in his name, Stone was moved to attempt it, and, gathering a force in that part of the colony that had always been loyal to Lord Baltimore, St. Mary's County, he led them up along the bay to the Severn, where a few years before a settlement of Puritans from Virginia had been made. The force was divided, some passing by land and some by water, the vessels keeping near enough to the shore to assist the land forces, when needful, in crossing the creeks and rivers. These Puritans, in the present troubles, had of course resisted the authority of the proprietary, because they were in sympathy with the parliamentary cause, and because for religion's sake they objected to being under the jurisdiction of Lord Baltimore, who was of the faith which they abhorred. They also objected to the powers and title which he held, as being absolute lord, to whom the oath of allegiance and obedience was to be taken.

When Stone reached the Severn, whatever may have been his expectations, he found himself face to face with a force, partly military and partly naval, which soon, in the encounter which ensued, put his whole army to rout and took him and many others prisoners. Under what plea, it is not said, but in spite of the promise of quarter, when the surrender was made, some of the soldiers were put to death by court-martial, and Stone himself was only saved by the appeal of the Puritan soldiers themselves and some of the women of the place. The battle was fought about where Annapolis now stands. These Puri-

tans had sought refuge in Maryland, having been compelled by Governor Berkeley to leave Virginia on account of their religion. They had, also, been induced by Governor Stone to choose Maryland as their place of refuge, under the promise of indulgence for their religious views and methods. It is not clear why, when they had the opportunity, they should have indulged such malignant feelings toward him.

After this episode the proprietary jurisdiction lapsed, and continued so till Cromwell ordered its restitution; and even then it was not finally secured to him; for the governor of his own choice and appointment, Fendall, again surrendered it into the hands of the malcontents. By 1659, however, all was finally adjusted, to remain so, as it proved, only till 1689, when, upon the Revolution having taken place in England, by which James the Second was dethroned and William and Mary advanced to power, the people of Maryland overturned the government of Lord Baltimore and asked to be taken under the royal jurisdiction. The reason for such a course was that they were in sympathy with parliamentary ideas as opposed to royal absolutism, and had also grown to feel great dissatisfaction with the proprietary administration, under which the best interests of the province, moral, educational and religious, had been neglected.

From this time on till 1715, about twenty-six years, the Baltimore family was stripped of all civil power and authority, though not of their private right in the soil. They were allowed to draw revenue from their whole landed interest in Maryland, the same as any other proprietor. In 1715, however, authority and jurisdiction were restored, and continued to be exercised till the

people assumed jurisdiction, in the times preceding the American Revolution.

Now, why was it that Lord Baltimore had so much trouble through all this period, four insurrections in the course of the first fifty-five years—1644, 1652, 1659, 1689? Evidence is abundant and satisfactory that Cecilius Lord Baltimore was a man of eminent wisdom, and one in the very slightest degree willing to offend his people. Also it is in evidence that during his long life, dying as he did in 1675, he had the confidence of the people. He was a just, honorable, upright ruler. The same also may be said of his son and successor, who was so many years resident in the province. Why then, it may well be asked, was he so unfortunate as to have the colony so frequently disturbed and the people so suspicious as to be ever ready for rebellion?

The probable answer is not far to seek. In one great and cardinal matter Lord Baltimore was not in sympathy with his people, namely, the all-important matter of religion; in that day more important than in this, because religion entered so much more into the civil administration. In these days we should put under the ban any man that would refuse to vote for another on the ground simply that he differed from him in religion. It is true it is often done, but not avowedly because of the man's religious profession, but rather because of some qualities in his own character, as that he would use his official position to promote either the advantage of his own church or the interests of the members of his church. But in the days of Cecilius Calvert it was not so. For then religious antagonisms were as strong and as violently expressed as feelings or opinions are now concerning tariff issues or

questions involving the right of the general government to interfere with the rights of the separate States. The feeling about religion was deep and often malignant. Even Charles the First, though he was the donor to the Lords Baltimore of the handsome property and prerogatives bestowed, was in his heart strongly antagonistic to their faith, and if he, how much more the people not only of England but of the colony also; for from the beginning the great body of the people abhorred Lord Baltimore's creed, and as time went on the preponderance of this sentiment increased.

This question of religion entered into everything. Take the oath of allegiance, for instance. One would suppose that it would be sufficient for that simply to embody the promise to uphold the powers that be, and to maintain the laws. But it went much farther than that and decried the right and pretensions of the Roman pontiff to excommunicate kings and thereby depose them. And the oath of supremacy went farther than this, in that it declared the king to be the only supreme governor in his realm and dominions in all spiritual and ecclesiastical things and causes. The question of religion was the burning question of that day. It entered into everything. It excited passion, created suspicion, separated men from men, justified the most hideous and exhausting wars. It was not, however, because it was religion, but rather because there were associated with religion the most unwarrantable and extensive claims, to depose monarchs, to relieve the people of the duty and obligation of obedience. And these claims had sometimes taken the most substantial and terrible form; nations being hurled into the vortex of civil war, and the land ruined, according as

men would recognize the validity of these claims or would maintain the rights of their civil rulers.

This great, wide-spread principle was at the bottom of the disaffection of the people for Cecilius Lord Baltimore and his son. Whatever may have been their wisdom and uprightness, yet their church and religious connections they feared; as was evidenced by the fact that as long as these two held the government, that is, till the Protestant Revolution in 1689, fault was found and apprehension expressed. No man, probably, ever did less to deserve the apprehension, yet the sensitiveness of the people kept them always on the alert. Probably it was never so much what they did as what they left undone, the want of sympathy and interest in the people in matters of the highest concern, religion and education, which in that day was always connected with religion. The colony was assailed even before it was out of English waters, and brought back and made to take the oath of allegiance, containing, as we have seen, a clause denying the Pope's right to temporal power as it was then understood. This was the power to depose the English monarch, a clause inserted in the oath against the adherents of the Roman church, because such a power was claimed and had before been exercised in England itself; it had been claimed, though it could not be exercised, as late as the days of Queen Elizabeth. When the first Lord Baltimore visited Virginia, in 1629, he was approached with the demand to take these oaths of allegiance and supremacy.

The first proprietary knew of this feeling among the people and recognized it from the first, knew that he was not in harmony with the people. This is strongly indicated in the "Instructions" given November, 1633, when



the colony was about to sail, the first of which was "that the governor and commissioners be very careful that they suffer no scandal nor offense to be given to any of the Protestants, whereby any just complaint may hereafter be made by them in Virginia or in England, and that for that end they cause all acts of the Roman Catholic religion to be done as privately as may be, and that they instruct all the Roman Catholics to be silent upon all occasions of discourse concerning matters of religion, and that the said governor and commissioners treat the Protestants with as much mildness and favor as justice will permit."

In the fourth "Instruction" we read that by the first opportunity after their arrival in Maryland they cause a messenger to be dispatched away to Jamestown, "such a one as is conformable to the Church of England." In the fifth we again read that a messenger was to be sent to Captain Claiborne, "one likewise conformable to the Church of England." Evidently, among the "gentlemen" of his first colony there were some Protestants to perform these offices.

These "Instructions" show his recognition of the difficulties of his situation. He knew he did not have the confidence of the people, that they were keenly anxious concerning the whole matter of his faith, and therefore he was watchful not to give offense. The same policy was exhibited when it came to the administration of the settlement, for when on one occasion a Protestant chapel was violated, and when, on another, abusive language was indulged in against some that were reading a Protestant book, the offense was instantly rebuked and punished.

It was this question that gave Lord Baltimore his hands full of trouble and vexation from the start. His own church and the religious order that he had for some reason sent over, who were not then known as they came afterwards to be known, and to be reprobated both by popes and kings,—the Jesuits, harassed him by their assumptions in a matter of the highest moment; for they assumed, by an old ecclesiastical pretension, which had excited the antagonism of the crown and people of England in early days,—the right to acquire lands for themselves irrespective of the civil power altogether. In England, at one time, of course, such lands might be received by gift, devise or purchase, and being received were held forever. To prevent this the statute of mortmain was passed, which prevented the conveyance of landed property to the church, lest the church should, in the course of ages, swallow up the whole kingdom. The Jesuits in Maryland attempted to ignore this entirely, and though, under the charter, all of the territory of Maryland belonged to the proprietor, they attempted to override his right by acquiring land directly from the Indians, and to hold it independently of him and without his consent.

He fought them diligently on this question, though in doing so he excited doubts in the minds of the Jesuit fathers whether he was a true "Catholic"; while his secretary, Lewger, was vilified as if the leaven of his old Protestantism still pervaded his whole spirit. On the other hand Lord Baltimore could use severe language, and he exercised his capacity for epithets entirely without stint. Through the influence of the provincial of the order, however, he was able at last to reduce them to his will. He even ordered their withdrawal from the province; but

when they at last submitted, he proceeded no further. Doubtless the sole question with him was not their prerogative as churchmen to hold the land in such a way, though that would have excited his rebuke, but for example's sake; for had they been allowed to acquire lands in an English province, in violation of a law of the kingdom of England, and that one of the most important laws that an anxious people ever passed for their protection, and for which they had been compelled to strive through many years, and to counteract many devious and indirect attempts to circumvent the law, the fact would have struck a death-blow at his tenure of his territory. For a Roman Catholic to enjoy religious liberty in an English dependency, was in that day strange enough, but for a Roman Catholic order to have the power of acquiring property to an untold extent, would have excited the bitterest denunciation. Out of this struggle came the Maryland law requiring the consent of the legislature for any church organization to hold land beyond a small lot for church or house purposes.

Before the colony left England the difficulty of the situation was fully and clearly understood, as is evidenced by a paper drawn up by the provincial of the Jesuits, within the year preceding their departure, for the guidance of the proprietary and the society. For that paper was prepared for arming Lord Baltimore and the members of the Roman Catholic church against certain objections that would probably be made against the church, in view of various English laws as well as for other causes; and its purpose was to provide answers to such objections. The whole thing seemed to be wonderful at that time, that a body of men who were, however unjustly, looked upon

with so much suspicion as being malignant against their native land, should be allowed to leave it endowed with so many privileges and prerogatives, and to establish a province within the English dominions with such extensive jurisdiction. There is no wonder, therefore, that from the start so much objection should have been made.

This explains the insurrections and disturbances within the colony. The majority of the people were always opposed to Lord Baltimore in this matter of religion, and with the opposition they were afraid of him. For beside the insurrections which were always conducted by those of the Protestant faith, there were complaints heard from time to time, as that he had put all the offices in the hands of Roman Catholics, that the Roman Catholics were preparing a rising against the Protestants, that the oath of allegiance which they were required to take was to one of the Roman faith, that ministers and churches of the Roman faith were provided for, while all Protestants were neglected. Also when the province was in the hands of the Puritans, during the troubles between 1652 and 1659, their animus was strongly expressed against the Roman Catholics, though they included members of the Church of England as well—papists and prelatists. For it is to be remembered that in 1676 Charles, the third Lord Baltimore, who had just returned to England, after a long residence in Maryland as governor under his father, said that the nonconformists in the colony outnumbered the members of the Church of England and the Roman Catholics together, about three to one.

The position of Lord Baltimore was therefore most difficult. The colonists from time to time expressed confidence, made provision for revenue, and apparently were

well content to live and thrive under his jurisdiction, whoever might be the absolute lord at the time. But they never loved him, never admired, never had faith in him; and let occasion arise, they were immediately ready to throw off his authority. Their fears were always ready to be called into play; they seemed to be incapable of understanding that one of his faith was or could be reliable, a state of feeling that all through this period, down to the time of the Protestant revolution, was fostered by the condition of things in England and on the Continent. For while the whole Continent was agitated by the question of religion, England was passing through that series of civil and military disturbances that, beginning with the accession of Charles the First, did not end till his son James was finally driven from the throne and England, because of his arbitrary pretensions in what he esteemed the cause of religion.

## FIFTH LECTURE.

### THE LEGISLATION OF THE PROVINCE.

A feature of the province from the beginning, which, though not legislative, had the force of law, was the "Conditions of Plantation," or the conditions published as an inducement to persons to transplant themselves to Maryland. These were always generous, and in the beginning particularly so, because the territory was abundant, and useless unless occupied. As immigrants became more numerous the terms became less generous, but were always sufficiently so to keep up a constant stream of people into the province. In 1633, when the colony was setting out for Maryland, the offers of the proprietary were, that to every one who brought in five men between sixteen and fifty years of age, two thousand acres should be given, the proprietary exacting for himself an annual quit-rent of four hundred pounds of wheat. To every one that brought in less than five men one hundred acres were given for himself, one hundred for his wife, for every servant one hundred, and for every child under sixteen years fifty acres, a child over sixteen being regarded as an adult. In this case the quit-rent was ten pounds of wheat for every fifty acres. In 1634 and 1635, when the colony had been started, two thousand acres were allowed for ten men, with a yearly rent of six hundred pounds of wheat, while to those who brought in less than ten the same gifts were made for each, only with the annual quit-rent of seventy pounds for every

fifty acres. In 1641 a further reduction was made in the amount of land given,—two thousand acres for twenty men, with fifty acres for each adult and twenty-five for each child, with a further increase in the amount of quit-rent.

Sometimes persons, either at once or at various times, brought in more than the number given, so that extensive estates were held by individuals. Thomas Cornwaleys, one of the most important and enterprising of the first settlers, introduced fifty-one persons in all, so that his estates, which were held in different parts of the colony, were very extensive. One thousand acres or more, were a manor, of which the early intention was not only that such should be the name, but also that it should carry with it certain territorial authority, such as the holding of manorial courts and the prosecution of offenders both in civil and criminal cases.

Evidently in the charter the intention had been to make the lords of the manor a colonial aristocracy, having peculiar class rights and privileges. Permission was given to Lord Baltimore to create such an aristocracy, and this was a move in that direction. For in his laws submitted in 1637 there was one providing for the trial of a lord of a manor, as if he were of a superior class of citizens, and by it he was to be treated as in England a member of the House of Lords was treated,—tried by his peers, if a sufficient number could be found, in any accusation against him; and if condemned to capital punishment, it was to be, not by hanging, as all the rest of the people, but by decapitation. As the method by which manors were obtainable was the ability to bear the expense of bringing a given number of servants to the

colony, neither respectability nor intelligence necessarily accompanying such ability, one feels that Lord Baltimore did not exhibit his good sense in proposing such a law.

It was, however, so offensive to the Assembly that it never passed to a third reading, and consequently Maryland never had a landed aristocracy, no class that ever enjoyed exclusive privileges. The manorial right of exercising civil and criminal jurisdiction, of apprehending and trying offenders, and keeping the peace, was exercised, but only for a limited period. It was soon entirely superseded everywhere by the usual magisterial and county courts, the latter consisting of the magistrates of the county sitting as a bench. How strange it is that though other colonies, as New England, New York and Virginia, have bestowed a kind of prescriptive honor upon the families of their founders, Maryland has done nothing of the kind, so that even the names of the greater part of the first founders are unknown. I do not speak of what the archives may show, but of the fact as it is in common life. One may guess at the reason of this, but cannot be certain. There are various old names in Maryland, but they do not date from the beginning, and where they do exist, do not claim, and do not receive, any special consideration on that account.

Now in attempting to understand the legislation of the colony we must try to understand the population, for there was no quackery in Maryland in law-making, but definite, practical work all the time. By quackery I mean such attempt as was made in North Carolina, where the philosopher Locke got out for the proprietaries a whole body of laws, which, however perfect in themselves, were not fitted for the work they were



intended to do. Laws grow out of the needs of the people, and out of the minds of the people, an expression of their voice; and whenever they are not that, or have ceased to be that as society has advanced, they are inoperative or obsolete. That is the reason there are so many dead laws on the statute-books, laws in some instances that have always been dead. They have been begotten of enthusiasm, or they have been run through the legislature in some emergency, and, meeting no need, they have ceased to be. Lord Baltimore attempted to prescribe such laws for the regulation of the people, while living in England, and utterly ignorant of the thousand peculiarities that were found in the little local company in the wilderness; but the people feeling the Englishman's right, and knowing how fully that right was ignored in England at this time,—the period of eight or nine years after Charles had dissolved his last parliament,—they rejected Lord Baltimore's pretensions, and presented and passed their own laws. They were passed subject to his approval; nor did they deny his right to suggest, but only his exclusive right. It is true he was acting according to his charter right, as that charter was drawn up by himself or his father and approved by the king. Free-born Englishmen, however, had a prescriptive right, which was founded upon a greater charter, the *Magna Charta*, which Englishmen had wrung from a previous king.

Now, what about the population? It was greatly mixed from the start, and mixed in various ways. First as to social condition and distinction; for while many of the servants were of good birth and breeding, as Cornwaleys says in regard to some that he had brought over,

others were doubtless of the ignorant and laboring class. But all were willing emigrants, having left their home because they desired to better their fortunes, the very best material out of which new states could be made. Afterwards there came in another class composed of those who were sent from England for various crimes, sometimes felons, sometimes those charged with smaller offenses, sometimes state prisoners who had been taken in arms. But in the beginning it was the better elements of society that made up the body of the people. In fact, it was only such that would brave the deep and the dangers of the wilderness as they were thought to be; and on one occasion, when it was propounded as an alternative to a felon under sentence of death that he should pass over to the colonies or go to the gallows, he chose the gallows as the shorter road to the end of the miseries of life.

The term of service for which indented servants were bound, was generally five years, after which they became freemen. And as universal suffrage was the law of the colony at first, being limited to freeholders only after 1681, and every man could enjoy the privilege of a seat and voice in the Assembly, a man that was a servant to-day might be a lawmaker to-morrow.

Another class of people was found in the colony at the start, that is, emigrants from Virginia who had settled a few years before on Kent Island in the Chesapeake. These were Englishmen, of course, but because the Virginians had objected to the grant to Lord Baltimore of the territory which up to this time had belonged to them, these colonists were from the start hostile to Lord Baltimore and gave him what trouble they could. This

is the settlement that had been made by Claiborne, and for whose privileges, as independent of Maryland, he waged such warfare.

Then again there was another class that came into the province from the year 1644 onwards. They were Puritans that had been expelled from Virginia because of their religious faith, for Virginia always differed radically from Maryland in the matter of tolerating dissent. In fact, the governor, Sir Wm. Berkeley, was severe in every way, and tolerated in no degree any dissent from the legal and established order. The Puritans came into Maryland because they were assured of liberty in religion and of all the privileges of citizenship; but being here, and firmly secured in their possessions, their conscience troubled them about submission to one who, as they thought, was of the false church and faith. They were the most troublesome of all those who went to make up the early colony, for they were irrepressible, and until the year 1659 gave constant trouble and offered frequent violence. As long as either Parliament or Protector was controlling affairs in England they created disturbance in the colony. When Cromwell was dead they settled down into peaceful ways, and seem after a few years to have abandoned their early propensity to contention. Naturalization of foreigners was provided for in the Assembly of 1659-60, and soon after various nationalities came to be represented in the province. Later down the Germans especially settled in the western parts of the State, giving to society and enterprise there a very strong expression of their national characteristics.

A troublesome body of men, however, was found where Lord Baltimore might well have had no cause for

anxiety. I speak of the members of the Society of Jesus, whom he had himself sent over to the colony in the beginning, and whom he had chosen for the work, not only of ministering to the people, but also to preach to the Indians, a work which they faithfully performed, at any rate at first. It is to be said of them, however, that with all their devotion to their work, and all the occasion they had to show consideration for the proprietary, the members of the society that came into Maryland were, by their training, disqualified to be members of a free commonwealth; for their training as ecclesiastics had given them the notion that as churchmen, that is, ministers of the church, they were not under the civil law at all, but were subject to the canon law and pontifical prescripts only; so that in whatever way they might offend the laws of the colony they could not be tried by the laws of the colony, but must be tried by the ecclesiastical or canon law, and that not by laymen, but by their own tribunal and by church officers of their own degree. Such a plea had been made and established during the supremacy of the church in earlier ages, and had been the occasion of many abuses. That it should have been attempted now again in an English dependency, near the middle of the seventeenth century, can only excite astonishment.

But the claims of these Jesuit fathers not only covered the persons of the clergy, but also property and prerogative. They claimed jurisdiction in all testamentary cases and the administration of all estates. They claimed jurisdiction in the matter of matrimony also, pronouncing who should marry and the conditions under which persons should marry. In the same way they claimed the prerogative to act outside the common and statute

law, and to acquire for the church any property that might in any way lie open to them. In other words, in view of the canon or ecclesiastical law in this case named, the clergy were a different state or community, not *imperium in imperio* so much as an independent state and government, having its own laws and law officers, its own privileges and prerogatives, which, whenever and wherever there was conflict, was always to have precedence.

The claims of the Jesuits were in part formulated by the priest Thomas Copley in 1638, of which the following are the points made by him:

1st. That the church and our houses may be sanctuary (that is, might afford refuge to persons pursued by officers of the civil law).

2d. That ourselves and our domestic servants and at least one-half of our planting servants may be free from public taxes and services. . Though the rest of our servants be ostensibly taxed, yet that privately the custom of the other Catholic countries be observed.

3d. That though causes of priests be tried by public magistrates, yet that in private they know they do it as arbitrators and defenders of the church, because ecclesiastical jurisdiction is not yet here settled.

4th. . . .

5th. That though we relinquish the use of many ecclesiastical privileges which we judge it convenient to do for satisfaction of the state at home, yet that it be left to our discretion to determine when this is requisite.

This was an extreme and dangerous state of things, and Lord Baltimore immediately perceived it to be so. He had a great talent for expletives, and he launched

them against the fathers without stint. The claims of the fathers invaded in an eminent degree, his own charter right to the property in the territory of the colony. They invaded also his own charter right to jurisdiction, and they exposed him to the severest animadversion of the Protestant people of the colony and at home. And so in 1641 he published conditions of plantation covering the whole ground of controversy. The matter had by that time advanced to a point where the temper on both sides was severely tried. By the church all these claims were regarded as founded upon the gift of Christ to His church and as being the inalienable right of the so-called head of the church here on earth, resistance to which was deemed a gross sin. By Lord Baltimore the whole claim was denied and the canon law was declared not to reach to Maryland.

According to the church's claim the canon law reached the citizen in all his duties as a member of the commonwealth, and in anything that touched what the church might claim as belonging to her jurisdiction, which extended to almost all things that concerned either life or death, the citizen was supposed to have committed sin if he assisted in the denial to the church of her rights. All the claims of the church had been fully formulated in the *Bulla in cæna Domini*, issued in 1536 when the Reformation was making its rapid strides. This had, to the members of the Roman church, the force of law, and in it supremacy is asserted for the church over all persons and powers, temporal and ecclesiastical. During the controversy reference to this was frequently made, and Lord Baltimore, as well as his local officers in the colony, were regarded as guilty of sin in their resistance.

Fortunately for Lord Baltimore he had a man as secretary who was of his own mind in this matter, a member of his own church and a convert from the ministry of the Church of England, who, being a married man, had not entered the ministry of the Church of Rome. He was an educated man and fully informed as to this whole question; for it was an old question in England, one that had been fought over during centuries, with the result that the liberty of the land was finally rescued and secured. He was enough of an Englishman to abhor the pretension, though he was exposed to all possible taunts and accusations. By the church it was supposed to be of the very first importance, so that Father White, of the Jesuits, says, "The fathers of the society warmly resisted this foul attempt, professing themselves ready to shed their blood in defense of the faith and the liberty of the church, which firmness greatly enraged the secretary." What made them particularly angry was that Secretary Lewger "summoned a parliament in Maryland, composed, with few exceptions, of heretics, and presided over by himself in the name of the Lord Baltimore," and attempted to pass laws covering the points at issue; the indignation being at the fact that heretics were called on to decide concerning the prerogatives of the church.

Lord Baltimore, however, persisted, notwithstanding the pressure brought to bear upon him; the statute of mortmain was declared to hold in the colony, the provincial of the Jesuits at last sustained the Conditions of Plantation, which distinctly presented the proprietary's claims, the local members of the society receded from their position, and peace was restored. At one time, in

1641, the Jesuits were ordered to remove from the province, and authority was passed to another to take charge of Maryland. However, after the end sought for had been attained, the order for removal was rescinded and the priests continued their labors.

Lord Baltimore, however, felt their conduct most keenly and bitterly. Writing to his brother, the governor of the colony, in 1642, he describes the Jesuit priests as "full of shifts and devices," and says, "If all things that clergymen shall do upon these pretences should be accounted just and to proceed from God, laymen were the basest slaves and most wretched creatures upon earth."

Among all these diverse interests we can readily see that the position of Lord Baltimore was difficult. From the start the heretics, as the fathers called them, outnumbered the adherents of his own church, exciting in the latter, as we have seen in the case of the Jesuits, irritation and anxiety, for these had anticipated a freedom in this English dependency which they had found nowhere else in the English dominions, and now they found themselves as jealously watched and restrained in the matter of ecclesiastical independence as they were in England itself. They possessed all the rights and privileges of worship, they were allowed to make converts from among the people of the province, as well as from among the Indians, they had every prerogative which we of this day think belongs to any body of Christians; but in the mighty claims which the Roman Church put forth, and which they thought a good Catholic, as Lord Baltimore and his secretary Lewger claimed to be, ought to recognize and allow as essentials of the faith, they



found themselves shut off and put under the ban and required to leave the province. It was a heavy blow where none was expected.

But if the proprietary had difficulty from this source, not less had he from another class, the Puritans, who began to come into the province only four or five years after this other question had been settled; for they antagonized him from the time they began to acquire power. Whether Church of England people gave him trouble we do not know, nor whether any of the other bodies of Christians that may have been represented; for we are not acquainted with the religious convictions of the people in the earlier days of the colony. Much more is known of the matter later when the colony had increased in population. But take it all in all, masters and servants, Puritans and Jesuits and nonconformists of various names, along with Churchmen—who under the charter itself had a certain recognition, as the ecclesiastical laws of England in the matter of consecrating churches were alone recognized as allowable—his lordship had abundant opportunity for showing his talent as a good pilot to guide his bark through troubled waters. At one time, just before the close of the first rebellion in 1644, he did feel that all was hopeless, and was about to abandon the effort to build up his colony. It was after the long contention with the Jesuits and when the Puritans had begun to come in and the province had been for two years in the hands of his enemies, who had done their utmost to ruin it, and when his brother had been long a refugee in Virginia,—enough we would think to make a man turn away in disgust. His brother, however, came to the rescue, and not believing all was lost, by a manful effort restored peace and order once more.

It will be wise for us to get a clue to the policy on which Lord Baltimore acted in the legislation of the province. Nor is that difficult to find. He acted as every other practical man is found to act in his relations and dealings with his fellow-men,—by adaptation of means to ends as the occasions may arise. Theorists endeavor to force matters and to implant a new idea on an old system. But new ideas are possible only in a new system, and a new system is gotten only by agitation, or the training up of the common mind into readiness to receive it. New ideas are grafts that can be inserted only when there is vitality enough in the growing tree to lay hold on them and make them part of itself.

And so of Lord Baltimore's policy. There is no evidence for believing that he was ever an agitator. He undertook a difficult work, the building up of a province, the first attempt of the kind within the English empire; and by the necessities of the case, as well as of his own desire, it was to be different from anything at that time in the world. A new principle was to be recognized in it which, with the one noble exception of Holland, had never been a part of any commonwealth, namely, that among inherent human rights is that of worshipping God in one's own way, without restraint from any source. But the acceptance of this principle as the corner-stone of the province, was not of his choice, but of necessity. His own faith, his own position, required the principle. It was either that or ruin. And this policy of adaptation he pursued with great skill.

His first colonists were, doubtless, in harmony with him, however much they and he might differ in opinion in some matters. The twenty gentleman adventurers

that left England were probably, most of them, of his own selection, men with whom he had been brought in close contact, and men of as good birth and education as himself. For that reason there was no conflict between them and him in the earlier efforts of the colony to secure a definite form of government. They differed and expressed their differences, and he acquiesced. They passed a body of laws and he rejected them. He proposed a body of laws and they refused to receive them at his hand. They then considered them as of their own motion, passed such as they approved, and he confirmed them. It was a way of discussing and establishing a certain fundamental constitutional question by two parties living on opposite sides of the Atlantic. The men at the head of affairs in the colony knew of the rights of Englishmen, and quietly asserted them, notwithstanding any charter privileges King Charles might attempt to bestow on a proprietary of his own creation.

Of the two hundred laborers or servants that went to make up the first company, the noticeable thing is that the great majority of them were not of the proprietary's views in religion. This is vouched for by the provincial of the Jesuits, writing in 1642, who says of this first company that "by far the greater part were heretics,"—that is, of the whole number, for most of the twenty gentlemen, from all the evidence available, seem to have been Roman Catholics. And these laborers also appear to have been in harmony with Lord Baltimore, from the fact that the troubles that disturbed his colony were fomented by persons who did not belong to it.

As legislating with these—for the laborers, having served out their time, became freemen and sat in the

Assembly—there seems to have been essential agreement between his lordship and them, and the laws that they made were in an eminent degree well fitted for all the needs of the infant commonwealth, for such Maryland was from the first. It was a body politic, with all the laws and processes essential for good order, and not merely a body of men controlled and directed by a power existing over themselves, over whose will and actions they might have no control. This had been the case in the earlier Virginia settlements. The proprietary did not readily acquiesce in the pretensions of the colonists, so that the laws sent back by them in 1638 were not approved, though in the same year he sent word to his brother, the governor, authorizing him to assent and give immediate force to any laws that should be passed by the people, subject to his veto.

It was at this time that a full organization of the province took place, for one of the laws passed provided for the calling of assemblies. Such assemblies were provided for in the charter, the requirement being that all laws should be assented to by the people. This law provided for the composition of the Assembly, and determined that it should be composed of two classes,—those who should be chosen as burgesses, and those who should be summoned by his lordship's special writ. At first all freemen were expected to sit in the house and pass upon all laws, though any one unable to be present might delegate some one else to act as his proxy. Afterwards we find some confusion, some persons being elected as delegates, and having as such but one vote, while others claimed the right to sit and vote in their own name, a man so holding his seat and representing

only himself having as influential a voice as another man who might represent many.

This was found, of course, not to work well. Also when the body was composed in part of those who represented a number of voters and in part of those summoned by special writ, it was found not to be equitable, because those so summoned might very well defeat the will of the people, preventing even the expression of their voice; for no limit was placed upon the number that might be summoned. The inequality of this arrangement soon began to show itself, so that as early as 1642 the question of dividing the Assembly began to be considered, a change that was completed in 1650, when the two houses were created. In 1658 the right of appearing by proxy or in person finally ceased, and the two houses, as they existed till the downfall of the colonial system, came finally into existence. The upper house, however, differed very materially from the present State senate, where the members are elected in the same way as the members of the lower house; for according to the colonial plan the upper house was entirely the creation of the proprietary, being composed of the governor and other colonial officers appointed by him. It represented and protected his interests. It had the veto power over the action of the lower house, and could at any rate greatly retard any effort of that house looking to larger political freedom. Many were the contentions and the bitter words between the two bodies. It is to be said, however, that the lower house, having advanced a proposition or passed a law looking to the preservation or the extension of civil rights, never receded from it, but held on to it till success crowned their effort.

In a session of 1639 the Assembly passed a series of laws of the highest importance, which gave a permanent color to the province and indicated the character of the people. The first law passed declared that Holy Church should have all her rights and liberties. Many claims have been set up on this law, as if it bestowed upon the church of the proprietary a certain peculiar eminence and assured it of many gifts. The law, however, meant nothing of the kind, but was only intended to be a recognition of the Christian Church as in England established, the Church of England, and declared that as such she should possess whatever, as of her right, belonged to her. The phrase was copied exactly from the *Magna Charta*, which, as will be remembered, became the constitutional principle in England at a time when the Church of England, in the person of the Archbishop of Canterbury, and the State of England, by the barons assembled at Runnymede, were vindicating English liberties against the poltroon who would sacrifice them to the claims of the papal throne, an act for which the Archbishop received the severe condemnation of the Pope. The church has rights and always has had rights in glebes and endowments, rights to perform spiritual functions, rights to do her own work without being meddled with. This phrase, instead of being any assurance of special privileges to the church of Lord Baltimore, as has been claimed, was rather the assertion of the liberty of the church against any claims or pretensions that he might set up; in the same way as in Stephen Langton's day it was an assertion in *Magna Charta* against tyrannous claims that King John might make either to oppress the church or to betray it. It was a

common phrase in the earlier codes of laws, like some of the protestations found in the charters, where God's glory and the good of the heathen are assigned as the causes for enterprises beyond the seas, and Maryland lawmakers adopted it probably as belonging to the proprieties of a newly promulgated code.

The great contest with the Jesuits was about breaking out, and we see what were esteemed by them the rights and liberties of the church. So far was this from being a submission to them, that within a short time they were ordered out of the colony. Also by the seventh section of this code we have the very rights for which the Jesuit fathers were ready "to shed their blood" distinctly alienated to and claimed for the civil jurisdiction, —power, for instance, in matters testamentary, the proving of wills and granting letters of administration. The act, if it meant anything special at all, as applying to Maryland, meant that men should be allowed to serve God in any way acceptable to themselves without let or hindrance from the civil authority, a liberty that has existed up to this time. When the Jesuits attempted to extend their claims to a degree that could never be allowed to any body of Christians, they found themselves condemned by all but their own order.

The first sections of the code were declarations of the rights of the church, the king, the proprietary and the people, assuring to each whatever in the common law of England belonged to them. It was English legislation in behalf of those who were liege subjects of the king of England. A notable thing is that at this time, when England had had no parliament for about ten years, Charles the First having determined to rule without

one, the Assembly of Maryland passed, and Lord Baltimore approved, as he had before suggested, a law providing for triennial sessions.

Other matters of cardinal moment provided for by this code were the trial by jury, the right of all men to the common law of England, and that the inhabitants shall have all their rights and liberties according to the great charter of England. No exception was made of any, no privileges were granted to any, no ecclesiastical courts were set up for the trial of ecclesiastical persons or persons whose crimes were against the church or her laws. All persons, ecclesiastics, lords of manors, freemen, of whatever degree or calling, as well as all servants, were equal before the law,—the same laws for each and all. These great institutes are regarded as being for Maryland a constitution, in conformity with which all subsequent laws have had to be made.



## SIXTH LECTURE.

### CONTINUATION: LEGISLATION OF THE PROVINCE PREVIOUS TO 1689.

I have said in the previous lecture that Lord Baltimore's method of administration was on the principle of adaptation, which means that, recognizing that he had intelligent men to deal with who could not be intimidated by a great name, who knew they had rights and dared maintain them, who felt that in the eye of English law they were equal with the best blood of the land,—that recognizing this, he accommodated himself to the pressure of circumstances, and proposed such laws and approved such laws as he felt the will of the people and their needs required. And he showed his wisdom in this. The will of men is very much like the law of gravitation; it is going to have its way all the time. It may be modified, instructed, improved, but it cannot be ignored or annihilated. It may be made to operate along unfortunate lines, through the deficiency of instruction; it may be chained down by the dread or the exercise of tyrannical power; but it is there all the time, biding its opportunity, and when it attains it, exercises itself with a power commensurate with the previous restraint. Lord Baltimore had the wisdom to recognize this fact, and accommodated himself to his circumstances from the start, or as soon as, in his first conflict with the colonists, he learned that they had a will. He was but a young man then, but he had already the skill of a famous French statesman who was able to pass through

many crises of fortune, and who said, in response to some one's astonishment at his good fortune, "I bend like the sapling and do not break as the unyielding tree."

To-day we come, in the consideration of the legislation of the colony, to the law which, probably, of all passed in all the colonies, during whatever period of their history, has been most talked of. I refer to the "Act Concerning Religion," passed in the year 1649; for it has been talked of and written about by statesmen, historians, orators, bishops, cardinals, priests, on both sides of the Atlantic. It has been the theme of college students, school anniversaries, and has been represented as glorifying a great Christian body, as if it were the choicest gem that could adorn the brow; and for many years almost all men conceded any claims that were made to the honor which it was supposed to bestow.

Now, accepting the proposition that Lord Baltimore suggested and submitted the law, it is difficult to see how the law could, in the light of its true circumstances, bestow such honor upon him; or again, granting that he is to be so honored, it is difficult, impossible, to discern how the personal honor that may be supposed to belong to him, is in any way reflected upon or adorns a whole body of Christians, that have not another like instance to show in all the legislation of any time and place which members of their church could or did control. The thirst for honor and the conscious necessity for it, must, indeed, be very great to bring one such instance into such great demand.

As to religious toleration, or the right to the exercise of religious worship according to one's own craving or desire, more properly religious liberty,—that is a question

that arises late in the history of any people. While all men have conscience, yet conscience toward God comes in late in the development of man. Religion itself in the beginning is a superstition, a dread of something in nature behind the mere natural phenomena; and the acts of worship, not worthy of being called so, are efforts at placating this something, or diverting its malevolent power from one's self. Even later in life, in all nations except one, which was taught by the Almighty a definite notion of sin, I mean the Jews, religion did not enter into the province of the conscience. Men had a regard for one another's rights. There were definite laws regulating mutual conduct, and these laws were fortified by, if they were not the outcome of, the sense of justice in the relations of man with man. But conscience toward God was an unknown quality; it was too high an idea, too difficult a conception. Religion was made up of ceremonies, sacrifices, sometimes attractive for beauty, sometimes hideous and brutal. St. Paul, in writing to the Romans, touches upon this question, and referring to things done in the name of God, speaks of them as done in secret, of which it is a shame even to speak. That was in Rome and in Greece, centers of western education and refinement; but it was even worse, infinitely worse, in the great center of eastern refinement, Babylon. Even to this day, in some lands where ignorance abounds, in the very midst of a Christian priesthood, religion is very often only a matter of forms and ceremonies, an observance of rules, an obedience to institutions, and conscience is unheard of.

As men are cultivated, however, as religion becomes a personal matter and not merely a social institution, conscience develops; and when it does, it becomes stronger

than any other power, even than the will itself. Though such a distinction is hardly legitimate, in that with an aroused conscience the will is always in alliance. But it is this mighty force, conscience toward God, calling forth all the rectitude and all the loyalty and all the devotion of the human heart; and the heart means human energy.

And whenever it has arisen into being it has wrought commotion and discord in the world. It has struggled against the bonds with which men have endeavored to bind it, and it has never rested till it has broken the bonds and felt itself free. This was at the bottom of all the turmoil and confusion that, beginning with the Reformation, continued in England till the reign of William and Mary, nor even then was the principle fully established. It was at the bottom, also, of the commotions that disturbed Europe through the same period, whether the Huguenots of France were the occasion, or the Waldensians of Savoy, or the Bohemians and others of the Austrian dominion and of the German empire. Conscience would not, could not yield, and battles were fought and provinces desolated, in the futile attempt to break down her spirit; and in the end all that was done was to spill the blood of countless multitudes of men and women and children, fill the land with cries and tears, and at last acknowledge the freedom of conscience. Conscience is the highest expression of the human mind and character.

A curious feature of the whole matter is that good and conscientious men, who would themselves have died for their conscience, have in innumerable instances been those who would deny this high prerogative of freedom to others. For it is not the ungodly, but the godly who have

most frequently, in our Christian period, persecuted others for religion's sake. Torquemada, who established the Spanish Inquisition that wrought in his day, and for centuries afterwards, such horrid butchery, was a rigorously upright and devoted man. The men of the days of the Commonwealth, and before, in England, who put popery and prelacy equally under the ban, were very righteous men. The men who in the reign of Elizabeth consented to the death of those who dissented from the established faith, were sincere in their belief and practice. The misfortune has been that such men felt themselves endowed by God with authority over another's faith, and because such would not surrender the prerogative of believing and worshiping according as their own consciences might prescribe, they were condemned to the stake or the scaffold.

Often, also, the party that had called loudest for religious freedom and the right to serve God in their own way, were the first, when power came into their own hands, to push to extremity those who differed from them in belief or practice. That was the case in England in the days of the Civil War. When the Independents were successful in the field, Cromwell very plainly intimated to the Presbyterian Parliament, that such men should be allowed to worship God according to the light which they possessed; and yet when they came into power, no man ever looked with more wrathful scorn upon those who would follow the old ways in religion. So in Massachusetts. The Plymouth Brethren fled to Holland because they were denied religious freedom in England, but no sooner were they firmly fixed in their own colony than popery, prelacy, and every form of dissent were rigidly

suppressed as far as in their power. In Maryland it was the same. Puritans sought asylum in Maryland, coming from Virginia because they were no longer tolerated there; and yet, as soon as they were here, they began a protest which became more and more violent against the Church of the proprietary, as well as against the Church of England, which in Virginia had repressed them.

Such was the experience the world over. He who cries out most lustily when he is down, will be the most deaf to cries when he gets on top. Freedom of conscience, the ability to act consistently upon the principle, that while religion is to bless by its association the civil institutions of the state, it is to be regarded as independent of, a different order, organization, autonomy from the state, is, may be, the last thing to be achieved in the progress of mankind,—the recognition that, while the state exists to secure the welfare and the peace of the community, and to enable men to work out here the highest destiny that is consistent with the good of their fellows,—for all the higher functions of their nature, as regards their soul and spirit, as regards their eternal welfare, and their relations with that higher community which has Christ as its head—with this the state has nothing whatever to do. This has nowhere been entirely achieved yet, and in some places, as concerns this matter, darkness broods with pestilential wing. When it shall be universally recognized, then, and not till then, will Christ's kingdom be established on earth.

When the Act of 1649, concerning religion, was passed, very little had come to be known concerning this fundamental principle in the true economy of the race. As we have seen, when the Independents were soldiers, and had not yet come to be directors of the affairs of England,

they claimed the application of the principle to themselves. Like as it is with men generally, when pursuing their own ends, all that they asked was "to be let alone." It was very different when the positions were reversed. Some few men, as Sir Thomas More, had advanced the truth, but it was rather the adumbration of the philosopher than the principle of the lawmaker. He was one of the most conscientious men of his age, and possibly of any age.

The man, however, who stands out gloriously before the world as the practical representative of this great truth, is not Lord Baltimore by any means, but a man who lived many years before he was born, a man who made his land to be the refuge of the persecuted, and who insisted that all should enjoy the equal privilege of coming before God, each in his own way. I speak of William the Silent of Holland. Like Cecilius Calvert, he was a convert, only it was out of the Church of Rome to the Calvinistic faith. Also, he lived in a day when persecution was rife against the church and faith of his adoption; for in his time the awful Massacre of St. Bartholomew took place, the anticipation of which the French king had communicated to him, for he only became a Calvinist in 1573. Holland also in his day suffered the last extremities of torture, both at the hand of Philip of Spain and his minister, the Duke of Alva, and of the Inquisition. Again he had the power in his hand to exercise reciprocal vengeance, and a word from him would have drawn the sword against the Roman communion.

But instead, whether on the one side against the Roman Catholics, or on the other against the Anabaptists, whom all men then spoke against, his word was one of peace.

Let them alone, was at one time his command when an attempt had been made upon the Roman Catholic. "We declare to you," he said in 1578, "that you have no right to trouble yourselves with any man's conscience, so long as nothing is done to cause private or public scandal. We therefore expressly ordain that you desist from molesting these Baptists." As early as 1576, the States General, through his influence, granted not merely freedom of conscience, but freedom of worship to all denominations, a privilege and a right that meant all that it claimed to be. Here, therefore, if any man is to be glorified, is the one. Rising supremely over all circumstances, early education, the sense of great personal and national outrage, and all the prejudices and accepted rules of his own day, he declared and illustrated the great principle with all clearness and fulness. At the same time he was bold, fearless, chivalrous, and distinguished among the great soldiers of the day. Religious freedom at his hand meant that he had grasped definitely the cardinal principle of human freedom. His conversion also testifies the man; for it was the surrender of great opportunities, for exposure, danger, and at last assassination; for, as is well known, a price was set upon his head, and he fell by the assassin's hand in 1584.

Let us now look at the circumstances under which the law in Maryland was passed. And first of all we must remember what we have seen, that the years preceding 1649 were years of trouble and confusion in the province. Lord Baltimore's government had been entirely overthrown, and his brother, the governor, driven to Virginia, where he had been compelled to remain about two years. The condition of things had become so desperate that



Lord Baltimore felt that further effort to preserve his colony was useless, or that it was not worth the struggle that had to be bestowed upon it. His brother, however, who knew all the circumstances, thought differently, and made, as we have seen, a successful attempt to recover it.

But what was at the bottom of this difficulty, and why were Claiborne and Ingle able so easily to overturn the government and retain so long possession of the province? It was, doubtless, because they reached some point in the people's minds in which they were antagonistic to the ruling powers, and that point was in the matter of religion. Even of the first company that came over in the Ark and the Dove, the pronounced majority was of the Protestant faith. Even among the "gentleman adventurers" there were some of this faith, as is indicated by the "Instructions" sent out with the colony; for by these Lord Baltimore provided for the sending of deputies to the Governor of Virginia as well as to Claiborne, to placate them, and he also provided that such deputies should be of the Church of England. As none but a "gentleman" was fitted for that office, there must have been some of the Protestant faith even among the chosen few. Thomas Cornwaleys, the most influential and capable man of the province, has been said by some to have been a Protestant, and certainly he was of good Church of England stock, and his descendants were of that faith. But of himself not enough is known to lift the question out of the realm of doubt.

We are not, however, left in doubt as to the religious views of the first colonists. The majority of them from the start were not of his lordship's faith, as we learn from the Jesuit fathers themselves, who commanded all

the information; for the provincial of the order in England, writing to Rome in 1642, declared that the affair was surrounded with many and great difficulties, for in leading the colony to Maryland by far the greater part were heretics. Father White, it is true, wrote, soon after coming into the colony, that they had been able to make various converts; but in 1641 he again wrote that "three parts of the people in four at least are heretics." It is in the same communication quoted above, from the English provincial to Rome, that we find Secretary Lewger is said to have summoned a parliament "composed, with few exceptions, of heretics." This was probably the Assembly of 1640, as he is referring to the troubles Lord Baltimore was having with the Jesuit fathers. As the Secretary was compelled to summon all the freemen, it indicates that the Protestants greatly preponderated.

And as it was then, so it continued all the way along. The ratio in favor of the Protestant majority always continued increasing. This abundance of evidence shows. In 1676 Charles, the third Lord Baltimore, who had just returned from Maryland, declared that the nonconformists outnumbered the Churchmen and Roman Catholics three to one, and that the Churchmen were more numerous than the Roman Catholics. This would make the number of these last relatively very small, a tenth or twelfth of the whole body of the people, a ratio that was declared to be true a few years after this time. It is a notable thing that the Roman Catholics, for whose relief the colony has been said by some to have been created, and who had, under the charter, the liberty of leaving England for the colony, do not seem to have come. They were denied the privileges of citizenship at home, the

full exercise of their mode of worship was a felony, they were suspected, they had every inducement held out to make the province of Maryland a retreat and to enjoy all the blessings of liberty, but they did not come. The few that did, were soon lost in the preponderating numbers of another faith. An inexact manifestation of the two great classes, Protestant and Roman Catholic, is given by a return made under a levy of 1667; for while the Roman Catholic counties, St. Mary's and Charles, where, however, there were many Protestants, returned together one hundred and twenty-one men, the other counties of the province, where the inhabitants were almost exclusively Protestants, gave two hundred and eighty-eight. In fact, almost the whole Roman Catholic immigration was in the beginning of the colony, and their settlements were confined to the region first occupied.

And Lord Baltimore recognized this state of things. Whether he was chagrined or not at the fewness of those coming over, we do not know. It was anticipated, evidently, from the Jesuit papers, that a Roman Catholic settlement was to be made, and provision was made for inevitable objections that would be raised, about their sympathy with the Spaniards, about the danger to the Puritan colonies in the North and to the Church of England colony in the South, from the contiguity of their Roman Catholic settlement. Also the bringing out of Jesuit fathers only, while so many of the people were Protestants, helps to show the animus. But the Roman Catholics, oppressed and disfranchised in England, did not come. Why, it would be hard to say. The colony became Protestant from the start, with a Roman Catholic

over-lord and a Roman Catholic governor and council. This taking of the officers of the colony from among a small minority of the citizens, was a piece of bad policy on the part of the proprietary.

But in 1648 Lord Baltimore recognized the true state of things and changed his policy. He took the local administration out of the hands of the Roman Catholics and put it in the hands of Protestants, choosing as the governor and the majority of the council persons of that faith. He did not do this because he loved to do it, for he had been pursuing the contrary policy for fourteen years, in spite of the murmurs and contentions that it had excited, the government having been restored on its old basis after its re-establishment in 1646. He did it because, evidently, it was now a necessity. Even his faithful and liberal-minded secretary, Lewger, who had acted such good part for him in the difficulties he had had with the Jesuit fathers, and who was a man after his own heart, was displaced, and his, along with other offices, turned over to the heretics. He was wise in so doing, and he was consistent, on the ground that his purpose had been to establish an English colony, not as a refuge for the Roman Catholics, but where religious freedom was to be observed and enjoyed by all. He had never asserted anything else, only he had been inconsistent in drawing a religious line in the matter of administration.

But now he changed all this, and Stone as governor, and Hatton as secretary, and Price as muster-general, and Vaughan as commander of Kent, were given commissions. The oath which he required, gives us light upon his motive. He saw it was in the power, and it might be in the pleasure, of the Protestant majority to

restrain and persecute the members of his church, for whom up to this time he had been able to secure immunity by the character of the men whom he had appointed in the province. But now he must create for them another defense, and while he would appoint men who had no religious sympathy for his own people, he would secure for them a sufficient protection.

That is the meaning of the oath which he exacted of the governor and council: "I do further swear that I will not by myself nor any person, directly nor indirectly, trouble, molest or discountenance any person whatsoever, in the said province, professing to believe in Jesus Christ, and in particular no Roman Catholic, for or in respect of his or her religion, nor his or her free exercise thereof, within the said province." Of the governor it was also required that in bestowing the offices of the colony no distinction should be made for religion's sake, and also that he would forbid any persecution for the sake of religion; and that if without his consent and privity any person professing to believe in Jesus Christ were persecuted merely for or in respect of his or her religion, that he would relieve and protect such person, and punish the offender.

This indicates a revolution, and it was not made without cause; it had become a great necessity. Lord Baltimore was not a very strict Roman Catholic as the Jesuit fathers counted strictness; that is, he would not have the spiritual fathers trespass in their spiritual claims upon his civil rights and prerogatives, but would confine papal rights, as was said by Lewger, *in foro conscientiae*. At the same time he would do his utmost to preserve the peace of the colony, and to secure to the Roman Catholics,

what up to this time he had been able, almost from the beginning, to command for them. Power to this end was slipping out of his hand, and he secured all that was possible for their relief and protection. This was in August, 1648, and during the winter that succeeded, the draft of the "Act Concerning Religion" was brought over, and was submitted to the Assembly the beginning of the following April.

It will be remembered also that at this time the royal cause was utterly prostrated in England, that the king who had bestowed the charter, with all its extensive franchises, upon Lord Baltimore, was now in the hands of his enemies, who were giving no uncertain indications that their purpose was the utter overthrow of the monarchy. Besides, as regards the colony, a condition of Governor Stone's appointment had been that he would bring into the province five hundred colonists; who did come, and whom Lord Baltimore doubtless expected to come, out of Virginia, a colony of Puritan nonconformists, who both would increase the Protestant majority, and probably infuse into it a spirit of vindictiveness which seemed to belong to their form of faith, and which had been fostered by their treatment in Virginia.

These are the circumstances, therefore, that led up to the Act of 1649; and while the Act was good, and the principles embodied in it those which the world now delights to honor (only the world goes a good deal farther now than that act went), yet the circumstances do not justify the admirers of Lord Baltimore in offering him as a great and singular hero. He was a wise statesman, he was under definite prejudices, as every man will be, but he sought, and saw the best means of attaining,

peace for his province. In the revolution that had become necessary in the administration, he secured a perpetuation of the peace policy that had governed him in the past, doing this not only by means of the officers appointed, but also by the law that was to control the administration.

The advisability of the law is seen in the fact that afterwards, when the Puritan sentiment, in the Claiborne-Bennett rebellion, attained for a time the control, this law was annulled, and another, though called by the same title, was passed in its stead, but which put both the religion of Lord Baltimore and that of the Church of England under the ban. The original act, however, was afterwards restored and continued in force till the Protestant revolution, when the Roman Catholic faith was again put under interdict.

Let us now look at the law itself. And first, of the intention, as announced by Lord Baltimore in the commission that accompanied the body of laws submitted, of which this was the first. The laws were proposed to him for "the good and quiet settlement of the colony and people." It was, in other words, a peace-preserving measure in its intention as well as in its terms, a provision against the oncoming times of turbulence which Lord Baltimore apprehended, and which did come within the next three years. Also it will be observed that it was the joint act of the proprietary and the people, so that neither party could claim exclusively what merit belonged to the passage of the law. The law, he says, "was proposed to him," by whom we are not told, and he approved the suggestion as wise and discreet, and well suited to give a good and quiet settlement of the colony and people.

The Assembly was then, and had been for ten years, composed of a large majority of Protestants, and the merit was more theirs, as preserving protection and religious freedom for a small minority, than it was his, who felt himself protector of that minority; though it is true, neither could do anything without the other. Besides, Lord Baltimore was not a stalwart Roman Catholic, however great his prejudices might be, but of that English type of mind that, while he could worship only in a Roman Catholic sanctuary, and accept the dogmas of the Roman creed, could trample under foot even the great papal bull *In cæna Domini*, when this bull proposed doctrines that were inconsistent with his prerogatives,—a kind of provincial Henry VIII. in the assertion of his temporal supremacy; for all his legislation, as well as his private utterances, spurned the pretensions of the Roman Catholic fathers to the peculiar privileges of their order; which in other times they had claimed in England, and which in other less-favored lands they were exercising at this time.

Whether the English Catholic Lord Baltimore, swelling with indignation, and reviling the persons of the presumptuous priests, is to be taken as the representative of the Roman Church, or those priests themselves who vilified the representative and agent of Lord Baltimore, who for him resisted their attempts to establish an ecclesiastical oligarchy in Maryland, is a question that is very easily answered. We may bestow praise upon Lord Baltimore as a wise and plastic statesman, whose judgment could be swayed by the necessity of the times; but we shall have to leave the church in the hands of the Jesuit fathers, as they far better present its tone and spirit.



The first section of the Act is Draconic in its severity, and indicates that however much the men that framed and passed it, may have been disposed to grant toleration in the matter of religion, they were not disposed to grant any whatsoever in the matter of irreligion. The whole idea of religious freedom was still in swaddling bands; for religious freedom takes the whole question out of the realm of civil administration, and means that a man shall believe as much and as little as he pleases. But in that day the majority, simply by toleration, graciously extended to all persons the privilege of believing, provided they believed aright according to the judgment of the majority. And so by this first section, if any one denied the Saviour to be the Son of God, or denied the Holy Trinity, or the Godhead of any of the three Persons of the Trinity, or the Unity of the Godhead, he should be "punished with death, and confiscation or forfeiture of all his or her land or goods to the lord proprietary and his heirs."

The second section is also restrictive, in that it provides that if any persons "shall use or utter any reproachful words or speeches concerning the Blessed Virgin Mary, the Mother of our Saviour, or the Holy Apostles or Evangelists, or any of them," shall be fined, and if he cannot pay the fine or will not, then he shall be whipped and imprisoned. For a second offense the fine was doubled, with whipping and imprisonment as an alternative; and for a third offense the punishment was forfeiture of lands and goods and perpetual banishment from the colony.

The third section was also restrictive, in that it forbade persons to call one another names, as heretic, schismatic,

idolater, Puritan, Presbyterian, Independent, Popish priest, Jesuit, Jesuited papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Separatist, or any other name or term in a reproachful manner, and the penalty was in this case fine. There was nothing very heinous in some of these names. They are good old honest names, and exactly describe what they were meant to indicate. The enactment of such a law shows how sensitive was the public feeling and how keenly anxious Lord Baltimore was to avoid every occasion of offense, and also it shows that the Act was a peace-preserving measure, and not the lofty and disinterested act of some one who had grasped, before his time, the great principle and postulate of human freedom in the realm of conscience.

The fourth section provides against Sabbath-breaking, and forbids uncivil and disorderly recreation, also working on Sunday when "absolute necessity doth not require," and the punishment was to be fine or whipping.

The next, or fifth section, is the one that has called forth so much comment and so great commendation in America and in England, in the church and also in the state. It begins with the proposition: that "Whereas the enforcing of the conscience in the matters of religion hath frequently fallen out to be of dangerous consequence in those commonwealths where it hath been practised, and for the more quiet and peaceable government of this province and the better to preserve mutual love and unity among the inhabitants here." As regards the first declaration about dangerous consequences, that was exemplified on all hands. Archbishop Laud had attempted it in England, the Roman Catholic princes had

attempted it on the Continent, Charles the Ninth had attempted it in France, the Presbyterians were now attempting it in England, the awful Inquisition was at this time attempting it everywhere, wherever the Roman Church could force it upon the civil government, and the Thirty Years' War, and the Massacre of St. Bartholomew, and the rack and the stake, and universal gloom had been the consequences; surely dangerous enough.

But the whole animus of the law, legitimate but not exalted, is expressed in the words next following, "for the more quiet and peaceable government of this province and the better to preserve mutual love and unity amongst the inhabitants here." The whole is a matter of policy, good policy, it is true, but policy: the more quiet and peaceable government. No recognition of a man's inherent and inalienable right to worship God according to the dictates of a man's own conscience. He must profess to believe in Jesus Christ; so far must he be orthodox. A Jew might be placed under the ban; a Unitarian was liable to be punished with death and confiscation of his goods, and his family left in poverty, the goods to go to the proprietary. There was no protection for such. By the first clause of the Act they were liable to punishment, and by this clause they might be molested, disturbed at pleasure.

And this is all there is of this much-vaunted law. Surely it must be because of a general poverty of claims that so much is made of this one instance. There was no religion in it whatever, no recognition of inherent human rights, only a wise adaptation to an emergency by a shrewd and observant man, who felt that the whole drift of the times and the power of numbers were against

him and the general policy of his administration. He on the one side and the colonists on the other, each of free will considered the other, and united to establish by statute what had been from the beginning the common practice of the province, a practice always rendered necessary by imperative circumstances.

It was a useful law, too, for it provided a sufficient answer in after-days to the charges made against the succeeding Lord Baltimore, that the Roman Catholics were unduly favored. He could point to this law as establishing the administration of the colony. The Puritans did not like it, so that when afterwards in 1654 they had gotten control of the colony they annulled it, passing a new law, in which both papists and prelatists, all persons but themselves, were denied its benefits. The law, however, was renewed when the provincial government was restored to Lord Baltimore.

Maryland has always occupied an honorable position among the commonwealths, not only of America, but of the world. We shall see hereafter the treatment the Roman Catholics received after the Protestant revolution, treatment wholly unjustifiable and wholly unnecessary from any point of view, and so far Maryland's record is blameworthy. But remembering the treatment of the Puritans in Virginia, and of the papists, prelatists, witches and Quakers in New England, and then observing what her conduct was, we can but be astonished at the measure of liberty she attained; for notwithstanding the universal belief in witchcraft and the tortures to which suspected persons were subjected in England as well as in America, it is surprising how free her record is. And as concerns Quakers, she was among the very first to accommodate

her laws to their peculiar idiosyncrasies, and to so frame her rules of procedure that they might live within her borders in peace and enjoy the privileges of citizenship. Her record is honorable, not, however, because she was faultless according to the standard of this day; for in those earlier days she had much to learn and much to unlearn; but honorable because in all the great social questions, no State or Territory has occupied higher ground than she, and because, also, in the great development that took place in both church and state matters through the seventeenth and eighteenth centuries, her position was always at the front.

## SEVENTH LECTURE.

### THE PROTESTANT REVOLUTION.

We have seen that after the year 1659 the troubles of Maryland ceased, that is, those caused by the Protestant faction that had been showing its spirit from time to time since the year 1644. Its motives, it is true, were not always avowedly religious, yet the probability is that that was the string on which they played to arouse the animosities of the people. After 1659, however, when Cromwell recognized the claims of Lord Baltimore and required that his province be restored, comparative peace reigned, hardly disturbed at all by the agitation and complaints that were heard from the lower house of the Assembly, presenting what they esteemed grievances. And this lasted till the year 1689. Then, however, it was broken, with very lamentable results for the proprietary.

Between these dates the first of those navigation acts was passed, by which it was sought more and more to bind the colonies to the mother country by unjust exactions, restraining the freedom of commerce, shutting up the ports of the world to colonial enterprise, forbidding foreign vessels to frequent colonial ports, preventing the building of ships. England, that at first neglected her colonies, doing nothing for their planting, but leaving everything to private enterprise, and allowing them to languish, and probably astonished at last that they continued to exist at all; afterwards, when the colonies

had grown by private thrift, intelligence and energy, sought in every way to make them minister to her prosperity and aggrandisement. And so she pursued the policy indicated. Fortunately for her, she began the policy when the colonies were still comparatively weak and the loss from the navigation act but little felt. Had she waited till the colonial commerce had expanded to large proportions the rebellion against her colonial system would have been sharp and dangerous. As it was, Massachusetts, that never had any love for the house of Stuart, and always fostered a republican love of having her own way, was forever irritating Charles the Second by her evasions of the law and by her shrewd justification of her conduct.

The year 1689, however, was big with results for Maryland. It will be remembered that in 1688 James the Second had been compelled by his fears, which were only too well founded, to flee from England and find his refuge with the king of France. And this he had to do because he had violated the constitution of England, and introduced principles into the executive administration, and practices into religion, that were dreaded and hated by the English people; for he had attempted to nullify the laws of England by his own proclamation founded upon what he supposed his royal prerogative, and by this means he had sought to introduce persons and practices into the Church of England which the people had cast off one hundred and fifty years before.

France had such a royal government at this time as James desired, for when in the early days of Louis XIV. the Council had attempted to consider one of his communications, he quickly informed them that his edicts were

submitted not for consideration but to be registered. James desired such regal independence as that. Louis succeeded, and the results of his absolute tyranny were found in the French Revolution one hundred and fifty years later. The people, not having courage to resist him then, had to rise in their power and crush out entirely his system and his successors afterwards. The English people, however, did their crushing at once, with the result that James and the abominable principles he attempted to establish, were forever ruled out of England.

Now this agitation in the English world of course extended to the colonies. The strong feelings that were excited at home were excited also here, while the frequency of communication kept the colonies posted as to the progress of events. The ferment of feeling was known and sympathized with, while the hope of relief in the coming over of William the Stadtholder, from Holland, was soon known in the colonies. Maryland was peculiarly circumstanced in the matter, for she was the only one of all the colonies whose proprietary or other chief administrator was of the same church with James. This fact had immense influence in exciting the interest of the people of Maryland in the progress of affairs; for though Charles Lord Baltimore was known to be wise and considerate, and the people had from time to time declared their appreciation of him and of the method he had pursued in the government of the province, yet because he was of the same faith and practice with his royal master he now became the subject of suspicion, and they were ready to believe anything that the wildest imagination could invent. Outrages were reported, tyrannical conduct was charged, and deadly intentions were said to be



meditated, if not by Lord Baltimore, at least by those who were of the same faith with him in the colony. Commendations by a people of their rulers, however, are not always to be taken at their face value; heavy discounts have often to be allowed. While the people were commending Lord Baltimore they were also approaching James with fulsome eulogy, congratulating him upon the birth of his son, wishing long life and peace; yet as soon as might be they rejoiced in the downfall of James, and did their utmost to overthrow their own proprietary.

Unfortunately for Lord Baltimore in this emergency, when William and Mary were established on the throne, and their title had been officially proclaimed, and they stood forth before England and the world as the defenders of the Protestant faith, Lord Baltimore, through no fault of his own, but through the untoward death of his messenger, was very slow in proclaiming them. The result of all these things was *The Protestant Revolution*.

What was this? The records of the province are at fault here, for there is a gap reaching down to the year 1692. But from what is known we learn that, like as in all such periods of transition, when men are excited by any cause, the citizens of the province bound themselves in an association to break up the government of Lord Baltimore, and to bring about the establishment of Maryland as a royal colony, with the king occupying the relation to the colony that up to this time the proprietary had held. The object of the association was to agitate, and this they did, preying without doubt upon the people's fears, denouncing to Marylanders the same condition which James had attempted to bring about in England. They did this by reporting among the thinly settled dis-

tracts of one part of the province outrages as committed by the religious friends of the proprietary in another part; for owing to the difficulty of communication and the small degree of intercourse, it was easy to start an alarm which it would take a long while to allay. Indian outrages also were reported, and the association of the papists with the Indians in conspiracy. All such fears were the more readily excited by the horrible atrocities which in 1685 had followed upon the Revocation of the Edict of Nantes, when four hundred thousand French Protestants, solely for their religion, were driven forth in the name of religion—the Roman—from house and home and country, dragooned to death, or stripped of all property and sent forth penniless.

All such things were esteemed possible in that day, the times were rife with them, and if they were not done by Lord Baltimore, his abstention from them was, to the minds of the people of the province, an accident of his disposition or of his circumstances. The spirit was believed to be of the essence of his church and liable to show itself in every member. We may see differently now, but there were many circumstances then to justify apprehension. For Lord Baltimore as a man the people might have great respect; but for Lord Baltimore's church, and for him as a member of it, the people not only had no respect, but great fears and anxieties. This probably suggests the leading cause of the Protestant Revolution.

The revolution consisted in getting the government of the colony out of Lord Baltimore's hands into those of the king and queen; and the reason why the people sought to make the change was that they had

faith in the one and they had not faith in the other. When the matter was brought before the king he consented to the desire of the people, and the government passed over to his hands. All Lord Baltimore's private rights, however, in the property of the province, were fully respected. The soil was his, the quit-rents or ground-rents were his, manors held for himself and vacant lands were his. The port dues were his also, and one-half of the tobacco dues, or duties on tobacco exported. When the revolution took place, the people claimed that these exactions went with the government, and were not to be accorded to the proprietary as a private right. They had been granted by acts of Assembly, and were no part of the proprietary's charter prerogatives. The king, however, after a hearing of the case, decided in favor of Lord Baltimore. Private rights were in this way generously respected, the king acting as Lord Baltimore's friend and restraining the impetuosity of the people.

But all the functions of government passed out of his hands. The governor was appointed by the king, and all the officers of the colony. All laws had to be submitted to the king for his approval. The courts ran in his name; the assemblies were called under his writ. All the functions of government were performed by him. It was a great change, it is true, but whether it was such that the people who lived quietly on their several farms could observe it, is a question. It gave them, however, a sense of greater security, for now they could have faith in the officials of the province, which they seem not to have had before. Beside that we can feel that a province of the English kingdom should be under the king of England. There was a fitness in it. And doubt-

less they had some such feeling in that day. Certainly by the charter allegiance to the king was saved, and all the residents of the province were declared to be liege subjects of the king. But yet the proprietary was "absolute lord," and fealty was pledged to him, and the king in all current administration, was not known.

We of this day have exceedingly little respect for kingly government; but for feudal government and subordination, as of hereditary right to a fellow-subject, we have far less respect. It would be an anachronism now, and it was becoming rapidly so at that time. The beheading of Charles the First and the abolishment of the House of Lords, the voluntary recall of Charles the Second, and the practical expulsion of James the Second, were successively fatal blows to feudalism; and the people of Maryland doubtless felt a relief when the feudal overlordship was done away with. It is true, it was in some degree restored again after 1715, but it never became what it had been before. Royal and parliamentary intervention in the affairs of Maryland, as well as of the other colonies, was far more frequent and direct after the restoration of the proprietary government than it had been before.

The thing most frequently spoken of in connection with the royal government of the colony is the change that took place in church matters, the whole institution as regards religion having been changed at that time. Before 1689 religion had been neglected. Doubtless many good Christians were found in the colony, but the population was so thinly scattered, and the various denominations so numerous, that the support of a ministry and the keeping open of places of worship, were

exceedingly difficult. There were a few churches and chapels of various denominations of Protestants in widely distant places, and the Jesuit fathers had their chapels in different parts of the colony. But religion was necessarily neglected, as the ministers, except the Roman Catholic priests, had to depend upon their private estates for their living, lands which they had probably taken up under the conditions of plantation. Lord Baltimore stated that in his testimony before the Lords of Plantations concerning the Church of England clergy in 1676; nor is there any reason to believe that it was not true of all other Protestant ministers, what few there were within the colony. The Jesuits had their extensive landed property in different parts of the colony, and they had also their lay coadjutors to attend to their affairs of business.

As far as is known, and as was declared at the time, Lord Baltimore did nothing for religion, except for his own church. One of the charges against him in 1690 was that of erecting and founding chapels for the popish superstition, to the encouragement of popery and the subversion of the Protestant religion. And another was that he took advantage of escheats of lands bequeathed and devised to the use of the Protestant ministry. There is no evidence whatever that any sums out of the revenues of the province, were bestowed in that way. As a loyal member of his church, he could not consistently help along the heretical faith, and as is evidenced by the long list of names in the "Act Concerning Religion," the denominations were numerous; for that list probably indicates the composition of the population. In 1676 Lord Baltimore testified that the nonconformists

in the colony outnumbered both the Church of England people and the Roman Catholics together by three to one. As he had been resident in the colony for a number of years just previous to this time, his testimony bore the full weight of authority. As is known also, he returned to the colony in 1680, and remained there about four years, so that he was personally responsible for any neglect on the part of the government of the province in matters of religion. And the same is true of the matter of education.

For religion and education were both very little cared for, and the result was a great prevalence of immorality; for though irreligious men, unbelievers or non-believers, sceptics or agnostics, may scorn the claims of the church, yet all men know, who are at all in the tide of life, that the ministrations of the church, and the influence of the Gospel through those ministrations, have a powerful effect upon every community for peace and good order. Nor are we called on merely to suppose that immorality abounded. The evidence is sufficient of its prevalence and of its gross character. It might be inferred from the general experience, for in all new communities, before order has settled down into a definite habit, vice flourishes. First adventurers that break away from the restraints of settled society to brave new things in a wilderness do not, as a rule, represent the religious part of a community. Religion only comes to be considered when the first rush has subsided, and a sense of a fixed establishment has been reached; because religion belongs to the more thoughtful and meditative elements of the human mind and heart, however much it may and must show itself in the active relations of the human life.

But over and beyond this anticipation, we know Maryland at this time to have been a very immoral community. The Rev. Mr. Yeo, who wrote at the time Lord Baltimore went to England in 1676, and whose letter called out the testimony of Lord Baltimore, as given above, reported to the Archbishop of Canterbury that the colony was a Sodom of uncleanness and a pesthouse of iniquity, and he ascribes as the cause, that the ministry were not provided with a support, and so could not live in the colony. An immense deal has been made of his call for an established support for the ministry, as if it were the voice of narrow ecclesiastical bigotry; and even McMahon holds Mr. Yeo up to reprobation, and points out the example of the Master who came down from heaven on His mission of mercy without providing for himself an established support. We need only say that such an argument from such a precedent, hardly proves an abundance either of learning or of logic in Divine matters. That something should have been appropriated out of the increasing revenues of the province, either by the proprietary or by the Assembly, for the support of religion was surely no unreasonable or extravagant demand; and if not for God's sake and man's eternal good, at any rate as a matter of good policy, and as a police measure for securing the welfare of the colony, it would have been well for Lord Baltimore had he made the provision. As reported by Mr. Yeo, there were about twenty thousand persons living in the colony at that time.

Nor does the testimony of Mr. Yeo stand alone; for in the year preceding the Protestant Revolution we find the president of the Assembly drawing a picture of the vice of the colony in the matter of drunkenness, adultery,

Sabbath-breaking and swearing, which being independent evidence, and that of a layman speaking in his official character, and following a dozen years after Mr. Yeo's, confirms all that he had said. The state of the province was wretched in the extreme. Further evidence, also, of a confirmatory character, is given in the act of 1692 providing for an established support of the church; for among the functions of the vestry, as then ordered, was one providing for the suppression of adultery within the several parishes, a function that was performed; while the several parishes show on their records how great the evil was. For in one parish, and that in some respects exceptionally well placed for moral living, there were ten separate cases of gross immorality passed upon in one month in the year 1698.

Lord Baltimore's administration had evidently done nothing for the moral welfare of the colony. In this respect his government was a failure. The ministers of his own church ministered to an insignificant minority,—one to thirty, the ratio was reported to be in 1681,—while the great body of the people were deprived of ministerial oversight and care. He may have thought them fools and blind for rejecting the ministrations that satisfied him, but nevertheless they did. And it proved bad policy on his part, though it may have satisfied his conscience, to have consented to this neglect. An established support, something out of the revenues for the maintenance of religion, would have promoted the welfare of the colony, and, as it proved, his own. His absolute indifference to this matter, with the consequent results, was doubtless one cause why the people were willing to see his government overthrown and the administration pass into the hands of the king.



For in considering the law of 1692 and its subsequent amendments till 1702, we must always remember that it was the act of the people and the people only; and not only so, but that what was done was not that which the majority of the people would have desired, but what they felt was the best their circumstances permitted them to do. For the Church of England which they established, was the church of but a part of one-fourth of the people; the three-fourths being made up of nonconformists of diverse names and principles, who had during the last forty years done what they could, more than once, to put down, not only popery, but prelacy as well. The act was passed at a time when all the frecholders of the colony had the right of franchise; so that the Assembly was not a packed one, but represented all the most intelligent classes of the people.

Their act, therefore, must have been contrary to their preferences, and could they have avoided it they would. They did not love the Church of England, nor did that Church love them. They had been subjected for many years in England, and especially since the Restoration, to many and grievous penalties. But something had to be done, and established maintenance had to be provided that they might have ministerial supervision at all. They were broken up themselves into many names. Maryland was now a royal colony, and the establishment of any one of their different denominations, was an entire impossibility; and yet the need was crying and imperative. They met their difficulty, therefore, in the only possible way; they provided a maintenance for the clergy of the Church of England.

For that was all that was done. It was not a state church they set up. No church functionary, clerical or lay, had any part in the administration of the colony, saving in the matter of suppressing immorality. No right to a seat in the Assembly was granted, no possession of influence or direction in testamentary matters, no voice in the matter of marriages, no independent courts in which to try their own causes, not even the power of disciplining the clergy themselves. No spiritual court of any kind whatever, nothing analogous to the efforts of the Roman Church fifty years before, nothing commensurate with the influence and power exercised by the nonconformist churches in the northern colonies. It was in no degree a state church. The state provided maintenance, and in return exercised jurisdiction so far as to say who should be settled in the parishes, and to supervise accounts, so as to know whether the money appropriated was properly spent. It even attempted at one time, in violation of the fundamental principles of the ministry, to exercise the power of spiritual discipline; but this the clergy resisted, and all discipline was held in abeyance. All attempts also to set a Bishop over the church, were steadily resisted and defeated. The state exacted a heavy compensation for the maintenance it bestowed. Every man, also, in the province, from the Governor down, enjoyed the privilege of indulging in charges and complaints against the clergy, a luxury of which very many constantly availed themselves.

Doubtless the men of that day knew what they were doing, and they exercised the good judgment that their knowledge of affairs and the exigencies of the times called for; and it is absurd for us at this day to question

or fault them in the light of our present surroundings. For what might be wisdom now, in the midst of our dense and well-ordered society, would have been foolishness then. The establishment of the church was a police measure, and a very good police measure it was; for it did what could not otherwise be done. It planted in thirty-one different centers in the colony a house wherein high moral truths were taught—had to be taught—both from the pulpit and from the reading-desk, and in this way it created a standard of good living. It also selected a council for morality in all these places, and bound the members to see to the morals of the people; and while the minister, or chief vestryman, as he was called, was to reprove, rebuke, exhort, the members of this council, or vestry, were to have the ability to enforce the colonial laws of right living. Observe, I do not speak of the high and holy functions of the church, but only of its establishment in the colony and what it wrought in the minds of the people.

The system certainly had its defects, as all systems have; and society also afterwards outgrew it, so that it became an anachronism and was removed; but in its earlier day, and through very much of the colonial period, it was an unspeakable blessing and accomplished high purposes. It is notable, too, that though at any time, down to the Revolution, it could have been abrogated, or could have been rendered inoperative by the rescinding of the provision for the annual tax, yet it was not only continued to the Revolution, but was shown very marked favor when the necessity arose for its repeal.

Let us now consider the features of the law itself. And first of the assessment laid upon the whole body

of the people for the support of the church. This was a poll-tax of forty pounds of tobacco, which was the currency of the colony, laid upon the whole labor-producing part of the population, white male citizens, slaves, both male and female, except those too old or too young to work, and a man's sons of age to endure labor. This was the taxable portion of the community. Ministers holding benefices were exempted, and also paupers. This forty pounds tax has excited a great deal of comment, and was through all the colonial period looked upon by certain classes, especially the Roman Catholics and the Quakers, as a grievance. It was, however, the main feature of the law, the very essence of the enactment, and if the law was at all necessary this tax was necessary. It appeared to bear heavily, and was one of those evident things that anybody could see. The value of the church, however, upon the welfare of the colony was not so palpable, and as a consequence people did not see the advisability of this demand. Only the two classes named above, however, made any very strenuous opposition; the first of which believed that no ministry was entitled to the name but their own, all the rest being heretics, while the second did not believe in a paid ministry at all. Forty pounds was the amount in the beginning while the population was small. Afterwards, when it had increased very greatly, the amount was reduced to thirty pounds. It may be of some comfort to some persons to know that, with scarcely an exception, no one could live in luxury on the income of his parish.

Churches, also, were built by a tax laid, but in this case by a special levy. Though this was not under the

law, but by act of the Assembly in each particular case. Current expenses, also, were in this way provided for. The voluntary system was hardly known. Gifts were sometimes made by individuals, and sometimes very handsome ones. Most of the glebes came by gift, and many ornaments for the church building. But the great reliance was upon the state and the revenue that came by the tax; a good system as far as it went, but not adapted to lift the people to any degree of fervor in the cause of religion.

The law had its drawbacks, as all compromise measures have, and this law was in a pronounced degree a compromise measure. Probably not one person in five was pleased with it. Its chief drawback was the attempt under the law, as at first passed, to restrict the liberty of worship, which did not of necessity belong to the measure. Rather it was a kind of pungent spice thrown in by the spirit of the times. It had to be abandoned, however, as the discussion proceeded; for, as we have seen, it required ten years to bring the law into such shape that it could meet with the king's approval. The king had more liberality than most men in his day, owing to his Dutch training as well as his natural endowments. English thought also wonderfully developed at this time, at any rate among statesmen, as the Toleration Act indicates. There was no necessity for any restriction upon any form of worship, and the right was finally conceded in all cases save that of the Roman Catholics, who, however unreasonably, were dreaded all through this time. The privilege of private worship was accorded them in their various chapels, which were found probably on all estates. But open church doors and invitations to enter,

were forbidden. And this feeling continued down till near the close of the colonial period, and until the great thought of the province was fully engaged in other matters connected with the approaching separation of the colony from the mother country. Proselyting was dreaded. Protestant children were withdrawn from the influence of the Roman Catholic Church, as when a Protestant father dying, the mother was of the Roman faith. The importation of servants of the Roman faith was restricted; the privilege of exercising the franchise was denied, not directly, but by the imposition of test oaths which no faithful Roman Catholic could take.

It is to be observed, however, in regard to all the oaths imposed, that such imposition was not the act of the Church of England as at this time established. That church was in a small minority. It was not established by the act of its own members. All the stringent measures, like the act of establishment, the forty pounds per poll under it, the restraints put upon the Roman Church, the imposition of oaths, were the act of the people irrespective of church connection. The oaths were imposed on vestrymen because they had certain civil duties to perform, and were, as vestrymen, State officials. The vestrymen need not be members of the Church of England, as was officially determined in one interpretation of the law, and sometimes they were not of that church. The same oaths were also imposed on all officers, and that not only in the colony, but in England as well, being only of English enactment, and extended to the colonies in the agitation and anxiety of the day.

Some one speaks of Anglican toleration, and contrasts it with the toleration of the proprietaries, but the term is

radically deceptive. The church was only made use of because it alone was available for the purposes of the people. This, however, is to be said, that having become established, it gradually drew into it a very large part of the colonial population, at any rate of the influential section; though to its shame and ultimate misfortune it neglected the great body of the people, failing to grasp a splendid opportunity.

The oaths spoken of above were these: First, I do sincerely promise and swear that I will be faithful and bear true allegiance to his majesty King William.

Secondly, I do swear that I do from my heart abhor, detest and abjure, as impious and heretical, the damnable doctrine and position that princes excommunicated and deprived by the Pope or any authority of the See of Rome, may be deposed or murdered by their subjects or any other whatsoever.

Thirdly, And I do declare that no foreign prince, person, prelate or potentate, hath or ought to have any jurisdiction, power, superiority, primacy or authority, ecclesiastical or spiritual, within the realm of England or the dominions thereto belonging.

Fourthly, The following test also was required of every church officer: We, the subscribers, do declare that we do not believe that there is any Transubstantiation in ye Sacrament of the Lord's Supper, or in the elements of bread and wine, at or after consecration thereof by any person or persons whatsoever.

The third and fourth of these were intended to be test oaths, and they were only English acts extended to the colony. The first and second were certainly legitimate, and what every state is justified in requiring,—the oath

of allegiance to the reigning king, and the declaration that no man, citizen or foreigner, has any right whatsoever, derived in any way, to murder him. Whether such oaths were required, the men of that day ought to have known better than we of this. Certainly their apprehensions called them out. They were, however, no part of "Anglican toleration," for the Anglican Church had nothing whatever to do with them. They were political measures.

In another respect, also, the time of the Protestant Revolution is notable: that then first education came to be considered as a popular necessity. There is no evidence that during the whole of the period down to this time any consideration was given to the subject. Some few of the wealthier citizens, probably, sent their sons abroad for training, as they did later in the colony; and of course educated parents saw that their children acquired at least the rudiments of common learning. But we can only suppose this. Education was not a subject in which the authorities showed any interest. As we have seen, even that influence which is exerted by a weekly hearing of a man of intelligence preach, was in a great measure denied them through the want of provision for the support of such teachers. It requires but a slight effort to conceive of the wretched condition of the colony, the rudeness, ignorance and depravity that must have been widespread everywhere within its borders.

But with the setting up of the royal authority in place of the proprietary's, a change took place. The administration was exercised not for private revenue, but for public advantage. Governor Nicholson, who was a man of a great deal of force and energy, no sooner



came into the province than he began to agitate for the establishment of schools, and so far succeeded, that in 1696 King William's School at Annapolis, out of which St. John's College has since grown, was founded, and provision was made for the support of this and other schools throughout the province. By a later law, passed in 1723, one school was to be opened as near as possible in the center of each county. Beside that, Dr. Bray, who was the first commissary of the colony, that is, presiding officer in church affairs, strove to establish libraries in every parish, and though they were under the control and for the especial use of the rector, doubtless did much good.

The change, therefore, that took place in 1689, by which the government of the proprietary was overthrown and that of the king set up in its place, notwithstanding all the animadversion that has been heaped upon it, accomplished large benefits for the colony. One-man power has never been advisable, and one-man power, when the power is exercised to produce the largest revenues for the man, has always crippled the energies and narrowed the minds of those who have been subjected to it. Say what we please in eulogy of Charles Lord Baltimore and his predecessors, Maryland was their private property. All officers were appointed and removed by them, all laws were vetoed that did not meet with their approval. The province had been established for revenue and it had been administered for revenue; and granting all integrity, no man whose mind is fixed on revenue, is capable of taking exalted views of men or measures. The commercial standpoint is not a good one from which to look at anything. Self must always

be dissociated if high purposes are to be apprehended or achieved. In the case of the Lords Baltimore, for the most part it was revenue drawn from the province to be spent in Europe,—absenteeism of the most pronounced kind.

Possibly the great body of the colonists did not know what the ailment was with which the province was afflicted. But the spirit of liberty and of larger things was abroad in the English world. Not only had a tyrant been overthrown in England, but a new principle had, in his overthrow, been definitely established. The cornerstone of a republic had been laid, so that though a life tenure was granted to his majesty, and the privilege of hereditary succession recognized, yet he ruled by act of Parliament, and he knew that that was his right and no longer the old myth of a right divine.

And that was the spirit that influenced Maryland at this time. No longer were they satisfied with an "absolute lord" that exercised dominion by virtue of a charter granted by an expelled family; but they wanted to enter the current of English life. And therefore, though they had nothing of a tyrannical character that could be charged against Lord Baltimore, and the charges that were made were in some respects exaggerations, yet what they did was legitimate,—it was human nature breaking loose from old shackles, sloughing off its old skin, and seeking association in a larger world. And church establishment for the correction of evils, education for the greater elevation of the mind, test acts against those who were dreaded, however unjustly, as ministers and upholders of ancient tyranny, oath of abhorrency as denouncing a principle that had been

avowed in other days,—all these were but incidental to the new life upon which the colony was now entering. It is true that in 1715, some twenty-six years after this time, the proprietary government was re-established, but every one that is familiar with the two periods knows that the tone, spirit, character of the people in the later differed widely from what they had been in the earlier. Maryland, instead of being merely the province and private estate of Lord Baltimore, with the feudal right of over-lordship, became in all the great questions that agitated the English world, part of the great British empire.

## EIGHTH LECTURE.

### FROM THE RESTORATION OF THE PROPRIETARY GOVERNMENT TILL THE CLOSE OF THE COLONIAL PERIOD.

We have now come to the time in the history of the province when another great change was made in its government. The royal administration does not seem to have been marked by any unusual degree of prosperity or of growth, though during the period matters generally moved smoothly. Any contentions that may have been in the colony, however much they may have disturbed society then, were not of a character to outlast their day or leave permanent marks behind them. But in 1715 great changes occurred, being nothing less important than the restoration of the old feudal form of government to the family of the Calverts, in whose hands it was to continue till the American Revolution; though it is true the last proprietary, Henry Harford, did not bear the name or title of the family.

What brought about this change was that the family of Lord Baltimore had in the meanwhile reverted to the first faith of the family and become members of the Church of England. For this change they have been very severely dealt with by some historians, though why one hardly knows. The first Lord Baltimore, George, changed his faith, and it was said by Archbishop Abbot that he did the same three several times before he became finally settled, and certainly he was not called on to suffer martyrdom for so doing. Rather time and

circumstance proved very auspicious; whether by his selection or not is not known. The second Lord Baltimore seems to have been a voluntary convert also, though but little is known, if anything, as to his age when he left the church of his fathers, or what circumstances influenced him. Certainly, however, he was not called on to suffer martyrdom.

But when Benedict Leonard renounced his father's faith and became a Protestant, interested and pecuniary motives were imputed to him. He made the change during his father's lifetime, receiving from his father a very severe rebuke, together with the cutting off of the allowance which up to this time he had received. He remained faithful, however, and as a compensation for his father's severity received from the Queen a pension during his father's life, and also five hundred pounds sterling from Governor Hart out of the emoluments of his office in Maryland. His children also were brought up in the faith of the Church of England. That unworthy motives influenced him we have no right to say, for we know nothing whatever about it. The days of Queen Anne were days of great religious controversy, and some of the best works in the English language on the subject of religion were written at that time. There is no reason whatever to believe that the son of Charles Calvert was not rationally convinced by the arguments that convinced so many others.

His father died in the year 1715, having enjoyed ample revenues from the province as well as from his other estates. Immediately his son solicited King George to restore to him the province, with all the extensive franchises of the proprietary. This the king granted,

but Lord Baltimore had hardly received these when he also passed away, leaving the family title and all its honors and wealth to a minor child, Charles. This, I say, was in the year 1715, and from this time on till the American Revolution Maryland continued under the proprietary government. Becoming Protestants, they were no longer feared. Maryland, however, was a different Maryland from what it had been twenty-six years before. It had grown into vigorous youth; it had become conscious of new rights; it felt itself a part of the great British empire; it claimed the rights of British subjects; it felt itself, as a province, superior to a proprietor who was himself, like all its citizens, subjects of the head of that empire. That explains why it had so many and such long contentions with the proprietaries till the close of the colonial days. It was conscious of rights and it strove to maintain them, though it had to do so often in defiance of ridicule and opposition from those who, as officials, represented the proprietary. It was a constant series of contentions which, begun with a definite purpose, never ceased till that purpose was achieved. For this was the characteristic of Maryland legislation, that what the people once set their minds on achieving was sure at last to be obtained.

The character of the colonial Assembly of Maryland must here be considered. The lower house was composed of those elected by the people as their representatives. At this time the suffrage was not universal; for beside the law of 1681, by which the franchise was limited to freeholders, the test oath, which could be required of any one offering to exercise any of the privileges of the franchise, shut out all consistent and faith-

ful Roman Catholics. They could not be faithful to their church and at the same time deny its great leading doctrine and the supremacy which the head of their church claimed as of right to possess. Often, doubtless, too, the members of the Assembly were untrained men; for the standard of education was never high in the colony. But they were evidently men with definite ideas and strong will, and they pursued their ends with a persistency that always secured success.

For this purpose a proprietary government was more propitious than a royal one would have been. For the difference was immense between contending for certain rights which an English baron would deny, and contending with the sovereign of the British empire. It is true they came at last to contend not only with the British sovereign and the British parliament, but with the whole power of Great Britain. But that came afterwards when they had for years been contending for their rights as Englishmen, with their immediate over-lord. Besides, they had a fight of their own to make, whereas had it been a royal government that was immediately over them they would have been only one among many colonies. A proprietary government, therefore, afforded them excellent exercise. It was not too much for them in their earlier days. It hardened their civil muscles, expanded their patriotic chest, and in time they became athletes, ready and able to meet any foe.

This of the lower house. The upper house was a very different body. It was not elective, but appointed by Lord Baltimore. It was composed of various colonial officers, whose salaries were dependent upon the fees of their offices. Their interests, therefore, were just the

opposite of those of the people. Dependent upon Lord Baltimore for their places, they became custodians of his claims and interests; and enjoying advantages according to the liberality of the monetary policy pursued, they were ever ready to resist the attempts of the lower house to limit fees, to control taxes, to scan appropriations.

And this position was recognized all the time. Through many years in every way they restricted and suppressed, as far as possible, every attempt of the lower house to extend its functions. Beside that, they bore themselves quite loftily, not merely antagonizing, but scorning and ridiculing the lower house. They stood for Lord Baltimore and they stood for themselves. They were generally men of education and men of position, sometimes men of exalted merits; and doubtless the difficulties they put in the way of the lower house had the effect of rectifying their projects, so that what was finally done was generally much better done than if there had been no objection. For while our ends may in the main be right, yet they are seldom so entirely so that criticism may not find some rational ground of objection. As it happened, also, the claims of the lower house often trenched upon the emoluments of the members of the upper house, and their criticisms were the more pungent on that account. The lower house, too, made a broad sweep in their claims, insisting that they occupied in Maryland the position of the House of Commons in England, and that the whole financial policy of the colony was in their hands, in that all money bills must originate in their house. And they carried this claim so far that during the French War, after the first year, 1754, nothing was done by Maryland, because the colony would only



grant a requisition on its own terms, which terms the governor and the upper house would not approve.

Before going into specifications in this matter, let us look at the men who ruled over the province as lords proprietary through this time. We have seen that the aged Charles died in 1715, having remained true to his religious convictions through the twenty-six years since he had been deprived of the administration. All that can be said of him is that he was evidently a very respectable man, and so bore himself towards the people of the colony, whether among them or in England, that he won their regard. This they testified publicly. Beyond this, however, they did not go, and as soon as trouble arose it became evident he had not constrained their loyalty; for they cast off their allegiance and were more severe toward him than even the Protestant king of England was, wishing to take from him not only the government, but also some of his private resources from the colony.

His son, Benedict Leonard, was proprietor so short a time that the colonists knew scarcely anything of him, nor did he leave sufficient memorials to enable us to form a definite opinion of him. Certainly he did not distinguish himself by any marked excellence either of mind or heart.

His son again, Charles, the fifth Lord Baltimore, and fourth proprietary, is better known, having been prominent in the social circles of England as a follower of Frederick the Prince of Wales, who, it will be remembered, set up a rival court to that of his father, George the Second. Not that his prominence bestows any honor upon him, for the prince used him in some of his dis-

reputable conduct as a go-between, and afterwards, when his conduct caused great social scandal, he disavowed Lord Baltimore, leaving to Baltimore the further disreputable part of attempting to screen himself and the prince by disavowing all that had been done. He was something of a traveler also. He made a trip to Russia, which was a distant point in those days, and on his way back stopped with the Crown Prince of Prussia, afterwards Frederick the Great, upon whom he made a very agreeable impression. He made also some pretensions to learning, and withal seems to have been a good-natured, agreeable kind of a man in society.

He did not command any respect, however, either for his abilities, acquirements or character. Walpole once described him as "the best and honestest man in the world, with a good deal of jumbled knowledge"; and again on another occasion, as "poor Lord Baltimore, a very good-natured, weak, honest man." The king also once described him in conversation: "There is my Lord Baltimore, who thinks he understands everything and understands nothing, who wants to be well with both courts and is well with neither, and, *entre nous*, is a little mad."

This is the man, then, that was "absolute lord of Maryland" from 1715 to 1751, a period of thirty-six years, a man who could veto her laws, nullify the will of the people, appoint all her officers, consume taxes laid upon her produce, squander her port dues, absorb the fines that might have gone to reduce the burdens of the state. And all because nearly a hundred years before a king of England had given to his ancestor, for two arrow-heads, the princely domain included within her borders. He

could excite no respect, for he was worthy of none. He was not a patron to the province, for it needed none; while in virtue of his family connection he drew immense sums every year from the colony to consume in ostentatious and absurd display.

No wonder, therefore, that the people sought, by claiming the privileges of English citizens, though born in the colony, to acquire for themselves, as their birth-right, the English statutes where they applied, as well as the common law of England. Over these there could be no veto. It was as in the days of Charles the First, when the people, passing over precedents that had accumulated during two hundred years and more, went back to the days of the earlier Edwards for the rights and principles of the English people. The charter bestowed certain functions on the proprietary, but it was presupposed that all would be like the first, men of judgment and men of character. When such ceased to be the case, and when also the province had outgrown the days of its infant numbers and of its narrow intercourse, the people, as of necessity, fell back upon the great inalienable rights of their imperial connection. They were Englishmen, and claimed all the franchises of Englishmen, and did not recognize the right of any sovereign to bestow, by charter or otherwise, any of their inherent rights upon any one.

When we turn, however, to Charles's son, the next proprietary, Frederick, we find all that has been said of the father applicable, only drawn in stronger colors. Like his father, he was a traveler. He had desire also to pose as an author, and distinguished himself chiefly by showing how much paper and ink he could waste on the

display of vanity and self-conceit. The description given of him by one of his own day is this, that he imagined "that he had too much genius, and that his Creator would have shown much more benevolence had He given him less intelligence and more bodily strength. He was one of those worn-out beings, a hipped Englishman, who had lost all moral and physical taste. He knows not what to do with himself, finds nothing to his taste. With an income of thirty thousand pounds sterling, he knows not how to enjoy it. He became so intolerable that at last I frankly told him my opinion." In addition to this, he was a man of very bad habits. In 1768 he was tried for a most infamous crime, an assault upon a female, and though acquitted, the universal feeling was that he was guilty. As is well known, his private life was bad. He died in 1771, worn out by a life of dissipation.

The province of Maryland was left by will to Henry Harford, the natural son of Frederick, with all the private and executive rights which the father had possessed. He was a minor at the time of his accession, and the province had to be administered by guardians in his name. By this time, however, Maryland, along with the other colonies, was so excited by the great questions springing to the front in connection with the policy of the home country,—though Maryland, also, herself had certain great colonial causes to agitate her,—that it would have made very little difference who was proprietary. Besides, Governor Eden, who was then in the colony, was not a man of a very vigorous, though very amiable, character, and proprietary rights were not brought offensively forward. What may be said is, that with such a series of

absolute lords, claiming great powers under the charter, it is no wonder that Maryland was what it was,—a body politic claiming and struggling for the largest possible independence, resisting assumptions by the proprietary, and by the governor and council that spoke for him, and asserting rights that practically annulled prerogatives that had been enjoyed from the beginning. A series of exalted men, of large and liberal minds, who, knowing the people, would have fostered what was good, would have been able to keep the province in peace. As it was, there was nothing to retard that natural growth of a free spirit, that, passing on from claim to claim, did not rest till a free and entire republic was established.

Between 1715 and 1776 there were three great notable periods of agitation, in which the subjects were of a local character and not connected with that other agitation in which Maryland took part with all the other colonies. The first of these periods reached from 1722 to 1732, years of effort on the part of the lower house, with steady antagonism on the part of the upper. The great question was, By what law shall the province be governed? Lord Baltimore said, By the laws that I approve; the colonists said, By the laws of Great Britain as far as those laws are applicable in the colony. Not here a law and there a law as the proprietary shall think advisable, but whatever laws are found within the English code and are suitable to the circumstances of the colony, shall be appealed to and applied in the administration of the colony. It was not a new question by any means. For many years the principle had been recognized and acted on in particular instances, yet such limited application had never been satisfactory to the people, for it had always

been a question for the courts to decide whether a law applied, and the judges, being of Lord Baltimore's appointment, could never be looked upon as impartial between him and the people, or in any case in which he in his own name or in that of his friends or adherents might be interested. For beside many other ways in which his lordship might be a party in matters of litigation, it will be remembered that the family had retained extensive tracts of land in different parts of the colony, as manors. So that he was as liable as another freeholder of the colony to meet with the difficulties incident to property.

It was true, as the court party, as the adherents of his lordship were called, said that a law of England did not necessarily operate in the colony; for various laws of a most important character, as the Habeas Corpus act, and the Toleration act, were not in force in Maryland until they had been adopted here. The whole was one of those cases so common in the legislative or judicial history of a people, where occasional incidents gradually go to establish a principle, until at last what was only sporadic becomes the consistent and lawful process.

Lord Baltimore claimed that such a principle would neutralize his right under the charter to assent to laws, and therefore he opposed it year by year. Particular laws might be recognized and applied, but to take up the whole body of English laws "in a lump," as he expressed it, did away with all the veto power of his provincial jurisdiction. It is true it was a rule that might work both ways, for while it might save the people from the arbitrary government of the proprietary, it

might also introduce laws that might seriously impair their own peculiar liberties; for there were many laws on the statute-book of England that would not have suited the feelings of the people of Maryland.

They pursued the matter, however, to an issue, which, though appearing to be a compromise, with the balance in favor of the proprietary, in its substantial results and further consequences was altogether with the people. The contest lasted nearly ten years. The terms finally reached were apparently ambiguous, but the practice of the courts of the colony henceforth was to accept such laws of England as were plainly applicable to the case before them.

The next great period was that reaching from 1754 to 1763. There had been trouble in the colony, beginning with the year 1739, on the question of the revenue which Charles Lord Baltimore was receiving. The people claimed that he received more than he was entitled to, that money that came to his hand ought to go into the treasury of the colony, and so the people be eased in their burdens. This controversy lasted till all such dissensions were lost in the revolutionary struggle. The controversy of the period between 1754 and 1763 was, however, of a different character. It was the period of the French War, which terminated in the last-named year; only the peculiarity is that the French and English provinces were in arms before the parent states had formally declared war.

In the pressure of the first-named year the colony responded to a requisition to the amount of six thousand pounds, and then provided for a sinking fund with which to liquidate the loan at maturity. This was done by

various taxes imposed on the people on various kinds of property. Among these we find a tax of a peculiar kind, different from any that we know of at this day. Maryland, through all the colonial period, had a poll tax, the most of her revenue being raised in that way. We have already seen the features of the law providing for such an imposition. This tax seems to have been levied to such an extent and in such an offensive way during the colonial period, that ever since then the people have utterly repudiated the system.

This sinking fund, however, was not provided for by a poll tax, though in one of its items persons were introduced with a discriminating odiousness that must have been offensive to the parties concerned. It was an income tax levied upon bachelors because they were bachelors, the amount being rated according to their incomes. Why they should have been so treated the law did not say. Probably the implied meaning of the law was that if not married they ought to have been, and that they could be if they would. Neither unmarried ladies were taxed, however large their incomes, nor widowers, even though they might not have children—only bachelors. It was evidently intended to be a penalty. This notion receives confirmation in the fact that bachelors are named along with luxuries, such as wines and billiard tables. The vestries throughout the province were required to return the names and rated incomes of all the bachelors within their parochial limits, and in many of the old parish records we find such lists.

After 1754 Maryland's course was different, and though the governor and council were anxious to heed the royal requisition for carrying on the war, yet Maryland did



little or nothing; for her first principle was that when the danger did not threaten her own borders the matter was no concern of hers; and so, however strong the demand might be, either from England or from the sister-colonies, she would do nothing. This was a selfish policy and might have proven a short-sighted one. Shut in as she was by Pennsylvania and Virginia, she was not to the same extent exposed; but the nature of the war, as carried on by the French and Indians together, might have brought on an inroad at any time. It was selfish, also, as showing an unwillingness to help those in their extremity with whom she was bound by so many ties, not only of blood, but also of interest. For though the colonies had not come yet to understand it, they not long afterwards learned that their interests were one, and that they must all stand or fall together. This came to be fully understood when the great emergency arose.

A second reason why Maryland did so little during the war was the jealousy of the Assembly against Lord Baltimore on account of the revenues he was receiving from the colony, the amount at this time being from eight to ten thousand pounds sterling. Part of this they were convinced he was not entitled to; and certainly the province was nearly a sinecure to him, with a revenue out of all proportion to any outlay or attention that his ancestors had expended upon it. The people were therefore jealous, and when the time came to provide for the requisition made by the English ministry for prosecuting the French war, Maryland insisted that the lands and revenues of the proprietary should bear their share of the necessary tax. This was, of course, bitterly opposed by the governor and the upper house. We can see no

reason why the Assembly was not right. We cannot see why extensive manors, and vacant lands in the market for sale, which were equally with all the other lands in the province to be protected against foreign encroachments, should not bear their equal share of the burdens of the province. We cannot understand why fines, which were penalties for the violation of the laws of the province, should not go to the support of the commonwealth. Nor can we see why licenses for carrying on business in the colony should go without drawback to the proprietary when the business itself was to be protected by means of the tax.

The whole order of things was radically different from our notions of what is right. The colony existed for Lord Baltimore, according to his view. It was not a commonwealth, but his private property. It was his peace that was broken, for which fines were imposed; of his grace that business was carried on, for which his license was given. All its administration was of his right and all its emoluments for his advantage. It was a strange condition of things. It had not the redeeming feature of royalty to tone down its severe expression, in which antiquity and long usage mitigate the hereditary idea.

Beside that, as we have seen, the present proprietary, Frederick, was not one on whom the people could look with any respect. We have already seen his character,—vain, foolish, depraved. Born in 1731, he was now in full career, and had exhibited the leading traits of his disposition. His father, also, who had died in 1751, was in no way qualified to win respect. These things made the people the more jealous. They believed that they were

being defrauded in various ways by the proprietary, and that the governor and upper house were, in his behalf, enemies of the rights and interests of the people. In the matter of licenses, and in the matter of port and tobacco duties, they believed they were being robbed every day, and so the position they assumed. The whole administrative power being in the hands of those appointed by Lord Baltimore, they had no redress. Now, however, an opportunity was presented of asserting the rights of the people, and it was done. One feature of their proposed ordinance was unfortunate. As the war was with a Roman Catholic power, and as they could not disabuse their minds of fear and jealousy of all Roman Catholics, they attempted to double the rate of the imposition of taxes upon such of the colony as were of that faith. The reasoning certainly was not logical and the conclusion was not just.

The consequence, however, of all these features of the law was that the colony did nothing for the prosecution of the war. The lower house would not depart from the position it had taken, and the governor and council would not approve the relief bill as passed. The other colonies complained bitterly of Maryland's inactivity, the British ministry was highly indignant and indulged in threats of coercion, but the Assembly stood fast. They laid the blame on the governor and council, and the governor laid the blame on the Assembly. The result, however, was the same. The people as represented—for the lower house was unanimous—had reached the point, as against the proprietary, when they would preserve their rights, and while they would help the general cause on their own terms, they would not help on any other. It shows

the spirit and resolution of the time. The dissension was continued through nine sessions of the Assembly, with the only result that the people of the colony got further training in the principles that were afterward to be accepted as the groundwork of their political existence.

The next period reaches from 1770 to 1773, and was a time of as much agitation and political ferment in the colony as any, may be, it ever passed through. To understand it we must bear in mind that the rule of the Assembly of Maryland, in the matter of money bills, had been to pass them only for a limited period, so that they had to be renewed from time to time. The advantage of this was that, holding the purse-strings, they could control so far the administration. It was a rule growing out of the resolution to preserve their rights; for, as we have seen, while no law could become such without the assent of the proprietary, so also no law could be repealed without his consent. To limit the period of the operation of a law, therefore, was their only safeguard. This principle is adopted in all free states.

Among the laws so passed was that of 1763, regulating the fees of office in the various executive departments, a law that was limited to seven years, and consequently expired in 1770. When this time came the lower house, reviewing the matter, discovered that certain officers were receiving most extravagant sums,—the secretary four thousand three hundred and seventy-six dollars, the judges of the land office three thousand four hundred and thirty-eight dollars, and the commissary-general three thousand nine hundred and twenty-three dollars,—salaries which, however moderate as compared with some at this day, were very large for that time.

The people, therefore, refused to renew the old law and insisted on certain reductions; but as the act of the lower house had to be approved by the upper, and these officers named were four members of the upper, their attempt came to nothing. The contention was prolonged and very angry, with the result that the Assembly was prorogued, with no law to regulate this very important matter. In this position of affairs Governor Eden attempted a solution, and raised a storm that agitated the colony deeply. He attempted by his own individual act to re-establish the law of 1763, with the fees therein provided, until the Assembly should pass a new act—a thing unnecessary if the governor could accomplish the same by proclamation.

With this the war began, hot and prolonged, in which all the ablest men of the province became interested. For to rule by proclamation, to assume the power to lay taxes, which the fees were declared to be, without the consent of the people, was always in the English world regarded as the grossest stretch of tyrannical power. Able lawyers contended, on the other side, that a fee was not a tax, and, appealing to precedent, tried to justify the governor's act. The response was that the duties of these various officers were essential for the people's welfare, that they were not a matter of choice, but of necessity, and that, therefore, they were a tax whose imposition belonged alone to the people; and they objected not only to the extravagance of the charges in this case, but absolutely to the principle involved.

It was in this controversy that Charles Carroll first came prominently before the people, and it was in this controversy that Daniel Dulany, one of the ablest men in

Maryland annals, wounded his reputation irretrievably. He had defended Maryland and the other colonies in the Stamp Act agitation, using his pen with great power, and exercising an influence in England as well as in America. But now, as provincial secretary, and the beneficiary of large emoluments from his office, he came forward to defend a principle on the denial of which the very existence of a free people depends. For when a ruler can tax a people by proclamation without law the whole power of the state is in his hands.

Of course there could be but one issue to such a contest at any time, and particularly now when the public mind was so much aroused on great civil questions. For this discussion began only five years after that of the Stamp Act, which had excited all America. By the elections of 1773 the will of the people was definitely proclaimed and government by proclamation received its quietus.

Associated with this controversy there was another that derived factitious interest because of its association, though it was also a matter of very great moment: the question of the salaries of the clergy under the act of establishment. By the law of 1763 these had been reduced from the original sum of forty pounds of tobacco per poll to thirty pounds, and when this law ceased by limitation, the question was, what were the clergy to receive? In this case the resort was not had to proclamation, as in the other, but the earlier tax of forty pounds was revived. For the law of 1702 was not repealed in whole or in part, but only thirty pounds appointed instead of the forty by the law of 1763. The whole process seems to have been peculiar, for this sub-

stitution of one rate for another without any repeal or amendment of the law which set the rate was something out of course. The agitation was wide-spread and very keen, though the principal use of it seems to have been to give the excited brains of the day another subject on which to show their skill and acrimony. Another question arose during the controversy, whether the act of establishment had been valid from the beginning, the ground being that though the Assembly that passed the law had been summoned by writs running in King William's name, yet that he had died before the law was passed, his death not being known of in the colony, and that consequently the act was null and void. This question the people of the day did not attempt to settle, passing it over to a more convenient season. The other question of the amount of the tax was determined in 1773, thirty pounds being again appointed. All other questions were soon lost sight of in the great agitation leading to the revolutionary struggle.

And now for the conclusion of the proprietary government. Henry Harford succeeded his father Frederick, not as of hereditary right, for his birth precluded that; but by his father's will all the property of Lord Baltimore and all the high privileges of "absolute lord" descended to him. It is not likely, however, that people paid much attention to the fact, though to many of them it must have appeared as the last point of their anomalous position, that all the extensive prerogatives of government and all the extensive revenues that arose in the administration of government, fines, licenses, duties, should pass over by will to another, an illegitimate child, a minor, one who knew nothing of the colony, and had no

interest whatever in its welfare beyond his own revenues. But the mind of the colony was now fixed on other things. All attention was absorbed in great questions. Principles, not men, occupied their attention. Robert Eden, the governor at the time in the colony, was personally a popular man, however unpopular his course in regard to the proclamation. He had, however, but little influence. The people, by the Assembly, as well as by their meetings held everywhere, were asserting master-ship, and the time between his accession and the Revolution was too short for any new question to arise about the rights of government.

In 1775, July 26, the Convention of Maryland took the government into its own hands and proprietary control ceased. The private rights of the proprietary were recognized till 1780, when the people having become irritated by the course of the Tory party in the colony, and by the refusal of the English trustees to honor the drafts of the State upon the public funds in the Bank of England, all the property of British subjects in the State was confiscated, amongst which property was that of Henry Harford. The State afterwards paid him ten thousand pounds sterling in compromise of all claims. In this way ended a connection which, however rational according to the ideas of the year 1634, had become in 1776 an anachronism and a monstrosity, so great had been the progress which the human mind had undergone within one hundred and fifty years.



## NINTH LECTURE.

### MARYLAND AND THE AMERICAN REVOLUTION.

We have endeavored to trace through the preceding lectures the development of a sense of liberty and the spirit of independence in the people of Maryland during the colonial period. That spirit we have seen manifested even in the beginning, when Lord Baltimore attempted to restrict the privilege of the people in the matter of proposing laws for their government. From that time on there never was a day in which that same spirit was not manifested. Sometimes it was toward the proprietary, sometimes the governor or council, sometimes it was towards the king and British ministry. It was always there, ready to be called forth upon every occasion.

What was all this but a steady course of education and training for the final development into statehood, the maturity of the commonwealth, in which the people of the state were to be their own masters and pursue their own courses, untrammelled by any over-lord of any name? The jealousy of Maryland in this was remarkable, as was evidenced by the fact that though she fought resolutely from the beginning of the war to the end of it, and took such deep interest in the period of agitation that preceded the breaking out of hostilities, yet she did not enter the Confederacy till 1781. Her position in the matter was rather that of an ally than of a confederate, in which, while she did her whole part and received encomiums both for her civil policy and the martial zeal and ability of her sons,

yet at the same time she insisted that a broad spirit of equity should be observed by all. Her whole life was in the cause, but her independence was preserved amongst her equals in the contest.

The purpose of this lecture is to review the course of Maryland during the whole period of the conflict. As we have seen, during the French War the wrath of the British ministry had no terrors for her. Her legislature had definite ideas of what was right to herself, and they pursued those ideas irrespective of threats from any source. The great English minister who afterwards espoused the cause of the colonies, William Pitt, was irritated to the highest degree. Governor Sharpe, though in a very eminent degree he commanded the respect of the people, urged in his irritation that, as the colony could not be reached by the direct method, a stamped paper be imposed on the colonies, to be used in all legal transactions; the same law that was afterwards attempted by the English Parliament with such signal failure. He even went so far as to send the draft of such a law to the Ministry. Maryland had never learned to stand in awe of any power or authority, but from the beginning insisted definitely on her own autonomy, that she was free to regulate her own internal affairs without dictation from any source.

Not that she was factious or rebellious in temperament. The contrary was the case. She gave the proprietaries, when there was cause for it, strong and substantial proofs of her more than loyalty to them. Also she evinced every desire not to break off her connection with the British empire; and when the British ministry relaxed its efforts to tax the colonies by the repeal of the stamp act, Maryland cordially rejoiced. Also she bore quietly through

many years the onerous and unjust navigation laws, though they were in such conflict with her own prosperity, restricting and confining her trade for the benefit of the English merchants.

Yet all the time the spirit was there. The charter of the province guaranteed the people of the colony the rights of Englishmen; and those rights they were as forward to maintain as the members of the Long Parliament were; and in fact the lines of battle were the same as they had been in the days of the Long Parliament. The only change had been that Englishmen in the earlier period had been compelled to struggle against the pretensions of the king, while the colonists were compelled to struggle against the Parliament. The rule had only again been shown in operation. In the first case their own interests and rights had made exceeding keen the vision of the English people; but when it was somebody else's rights and interests which were in jeopardy, the same English people could not see the application of great English principles.

The point at issue was the right of the people to tax themselves, to the exclusion of anybody else's right; taxation with representation, not without. That was the principle at stake, and all the attempts at subterfuge, as the pretense of virtual representation, as if the colonists stood upon the same platform with the great disfranchised classes of England, were ruthlessly pushed aside. Representation, with the Maryland colonists, meant the election by themselves of their own deputies to the British Parliament, as they elected their own deputies to their colonial Assembly. This was necessary for their protection; but this was impossible at the same time, rendered so by the

distance and by all the other circumstances of the colonies.

Also they brushed aside the claims of the English ministry, that the great English debt had been contracted in the defense of the colonies against French aggression. It was only English and French battles fought in America, a struggle that had been going on since the days of William the Third, the outbreak of the old jealousy that had been manifesting its virulence for centuries, since the days when the Edwards and Henrys had claimed the kingdom of France for the English crown. Taxation for revenue is impossible, was their first principle, because representation is impossible; though they did submit when the imposition wore another face, as, for instance, when a law was passed regulating commerce, even though the law did infringe upon the freedom of trade and affected their commercial interests. For it was not a question of money with the colonists. They did not rise in indignation when it was a money consideration that was presented. This is seen in the fact that when all other items were stricken out of the law, and only tea was left as the article on which a tax should be levied, and when, in further modification, the East India Company was allowed a drawback to the amount of the proposed duty, which drawback they proposed to give the colonists the benefit of, so that the tea should not cost them more than it would without the tax, yet even then the colonists did not let up for one moment. The principle itself must be abrogated, denied by the British authorities themselves. The No-taxation was to be regarded as the definite article of the American Constitution by the English authorities, and no precedent, however little it might cost at first, was to be allowed to establish itself.

The English authorities did not know what they were doing for America by the ten years of agitation which they fomented. For this was the time, from 1765, when the Stamp Act was passed, until the waters reached a head and all barriers were swept away. We are sometimes surprised at the vim and enthusiasm of America in the days of the Revolution; we are surprised at the tone and fervor of the Declaration of Independence, and at the exalted character and intelligence of the men who guided the new-born state in the days of its infancy. Rather it had no infancy, but sprang equipped, a well-armed warrior, at once into existence. But the agitation and discussion of ten years had done it. The generation of men that had come to the front, had drunk in a knowledge of those principles of civil and national freedom from the atmosphere. Those principles found a congenial soil; for all the colonies of America had and cultivated thoughts of their own independence in all matters of internal regulation. The soil was worthy of the principle. And so, when the day of enfranchisement came, when the question was injustice and humiliation, or a heroic effort for national life and the security of personal freedom, they were ready for it. And though the result was a long struggle, that tried the sincerity of the convictions of all, yet the issue was a state founded on the most rational ideas of individual rights and responsibility.

What is the record of Maryland for all this period? It is one of entire harmony with the whole national movement, the drift and tendency toward national ideas. Maryland has never been a quiet State. Whenever there has been any agitation in the country, Maryland has been involved in it. She has always been in touch with the

country, and, being a Border State, with a mixed population, she has been in touch with the whole country. And this was her condition at this time. We have seen her bearing during all the French War, how greatly all sections of the people were aroused on the great question of heeding the royal requisitions for men and money for prosecuting that war. That agitation was on a question of principle and of justice, and out of that she passed into the new agitation that now arose.

In consequence of the determined position of the Assembly at that time, it had been prorogued, November, 1763, and no session was held till September, 1765, when, in consequence of the proportions the Stamp Act agitation had assumed, it was called together. The act itself had been passed in March of that year, and had immediately been received by the other colonies with every mark of indignation. Such was the feeling throughout Maryland, and as soon as the Assembly convened it voiced the public feeling in a most definite way. The only business it would transact at all at this session was concerning the Stamp Act, as if it were a matter of such transcendent importance that everything else was too insignificant to be associated with it. To this end two propositions were before them. One of these was whether they should acquiesce in the proposition of Massachusetts to send delegates to a colonial congress, that by this means the universal sentiment of the colonies might be voiced to the ears of the British ministry. Upon this they immediately resolved, and not the lower house only, but also the upper, and their action received the approval of the governor.

This was of course inconsistent on his part, for he had, as we have seen, suggested during the French War troubles, when the colony had refused the requisitions, that this very plan be pursued for raising a revenue, and had even sent to England a draft of a law to this end. But at this time a new consideration had entered; for not only the people, but Lord Baltimore himself, as proprietary, felt his interests invaded by the attempt of the ministry to lay this tax; and for this reason the governor and members of the council were found side by side with the Assembly. The proposed congress met in October, 1765, and its action was heartily approved by the Assembly of Maryland when its delegates reported to that body, in November of the same year.

But the Assembly of Maryland did not stop with this. In the September session they passed unanimously certain resolutions of their own, in which, besides pleading their own right to exemption, under their charter, from English taxation, they emphasized the American position, that they would not, as well as could not, submit to the ministerial attempt. They claimed for Maryland certain constitutional principles, certain rights which the British Parliament had no right to take away from them, and which they had enjoyed from time immemorial.

But beside the action of the Assembly, the bearing of private individuals was equally as definite. One of the most able as well as far-reaching of all the pamphlets written at this time, was by one of Maryland's sons, Daniel Dulany; far-reaching in that it not only defined the colonial position in this matter, but also went far to giving clear apprehension, even in England, of what America claimed, and swayed to a very perceptible degree public

sentiment there. It enabled English statesmen to put themselves in America's place. It also went farther than this and urged upon the citizens of America to develop their own internal resources, in manufacturing whatsoever they could for their common necessities; and this for the purpose of making the merchants of England feel the power of America, and to indicate that to attempt to oppress her would certainly react to their own permanent loss.

And this advice was followed; for non-importation became a cry at this time, and continued so down till the crisis came; non-importation of everything on which the English government attempted to lay the tariff; and, finally, after the Boston Port Bill, non-importation of everything; the feeling being that the nearest way to English prejudices and to the English sense of justice was through the pocket of her merchants.

But Maryland adopted more vigorous measures still. For so high ran the indignation, that in various places the distributor of the stamped paper was flogged, hanged and burned in effigy, and himself in person treated with great indignity, and the house in which he lived torn down. He had accepted the office while in England and, doubtless, ignorant of how high public sentiment ran in the colony. After he had been so severely treated he fled to New York, where, not more kindly received than he had been in Maryland, he was compelled to relinquish his office and to promise that henceforth he would have nothing to do with the execution of the law. A violent discussion also went on continually in the public press. Associations, called the Sons of Liberty, were formed everywhere, and kept their watchful eye upon everybody and everything that was open to suspicion.



The effect of all this was what might very readily be supposed. The stamped paper was never even landed in Maryland, but was kept safe on one of his Majesty's ships in Virginia waters. Governor Sharpe wrote home from Maryland that it would be impossible to execute the law. The county court at Fredericktown took upon itself to say that the law could not be carried out, and that the business of the court must proceed without it. The provincial court also did the same, and so the law became a dead letter. The other colonies pursued the same line of conduct; so that in 1766, on the eighteenth of March, the act itself was repealed by the British Parliament,—having been in existence one year, and having worked incalculable mischief.

For though all America rejoiced, and Maryland with it, in the repeal, the agitation had brought the colonies together and taught them the power of protest and resistance, as nothing else could. It had taught them that they were a family of states, with common interests and a common destiny, and that their wisest policy was to combine, and that combination meant strength. On other occasions attempts had been made to bring the colonies together in congress, but had been ineffectual. But their present distress taught them the necessity, and from this time forth the national idea existed.

If, however, they fancied they had achieved what they desired, and secured their liberties, their confidence was short-lived. The English government had gone too far to stop. One ministry had been overthrown, and another had taken its place; and under that law, that whom the gods wish to destroy they first make mad, they proceeded in their policy of exacting a revenue from the colonies.

Doubtless, the predisposition of the English people was in favor of such a policy; for most persons, if there be any decent pretext for it, are willing to have other people pay their debts. This the English people thought a good thing at this time, when debts were exceedingly heavy. Besides, the new ministry was goaded on by the old, and taunted by the ex-minister with "you dare not tax the colonies."

The blindness of the English administration was, however, never more manifested than now; for it was thought that an indirect method, such as putting an import duty on articles brought into the country, would disguise the fact of taxation to the American mind. Such a law, it was supposed, would wear the appearance of a regulation concerning commerce, such as the colonies had submitted to in their past history, when shipping laws were passed by the Parliament. Unfortunately, however, the colonies remembered that at the time of repealing the stamp act, that body had passed a declaratory act asserting the right to tax the colonies for revenue. Also during the agitation caused by the proposed stamp duty, the people had come to regard the yielding to regulations concerning commerce as unwise, and so to antagonize any new attempt in that direction. The repeal of the stamp act, therefore, settled nothing; it only suspended the agitation for the moment. The English had only quailed before the storm which the stamp act had raised.

The cause of the colonies had been championed by the heroic Pitt, who gloried in their resistance, saying it was better that three millions should resist than that all Englishmen should become slaves. He regarded their action as the assertion of English freedom. Possibly he felt

and knew beforehand what was coming. For a century England had not been so near to an absolute monarchy as it became at this time, when George the Third assumed, through his tools in the ministry, a personal direction of all the affairs of the English administration. He, the king, spoke of "the fatal compliance of 1766," as if England had committed a gross and dangerous mistake in repealing the stamp act. And so, as if to cover up what was esteemed a shame, to wipe out a disgrace, the act of 1767 was passed, laying a tax on tea, glass, paper and painters' colors. It was at this time, also, that all those irritating causes became prevalent that are enumerated in the Declaration of Independence. For to provide against evasion of the law, not only was the collection of the proposed duties taken out of the hands of colonial authorities, but "writs of assistance" were authorized, providing for a forcible entry into private houses and dwellings by custom-house officers in searching for smuggled goods, doing away with the protection of the home that was provided for by the laws of the colonies.

Both parties were irritated and became more irritated than ever. The colonies had rights and dared maintain them. The English government denied their rights, and with a sense of power to enforce its will, and despising itself for its former weakness as it thought it to be, determined to proceed farther than it had done before.

The result could, of course, be readily anticipated. America was aroused more than ever. All the colonies, and Maryland not less than any, became organized for resistance. An attempt was made to reach English legislators again through the pockets of English merchants.

Non-importation became again the rule, and that not only of the things taxed, but of anything but the strictest necessities of life. Appeal was made to the king, who, as said above, now became all-powerful in the direction of affairs. Again the ministry yielded, but only in part. Everything was relieved of the tax except tea; but the people were not pacified. The tax must be entirely removed. Even when tea was offered at the price at which it could have been sold had no tariff been placed upon it, the people would not touch it. Tax for revenue, as laid by the English parliament, must be resisted.

This was the clearly announced position, and by it the colonies stood. Face to face with an indignant and powerful country, they stood without fear, not desiring that things should proceed to extremities, but if they must, then willing to abide by the consequences. It was a bold, definite and heroic position consistently maintained. And Maryland's position was with the foremost. Even when in 1770 the duty on all articles but tea was repealed, and some of the Northern colonies began to withdraw from the non-importation agreement, Maryland uttered her protest. It was a measure that could only stand by common consent, and so the Baltimore and other merchants of the State at last opened their trade to the articles that had been shut out. But the non-importation of tea, as the one thing on which the British king still insisted on placing a tariff, was adhered to most jealously. The British government attempted to quiet the feelings of the people by promising that England would proceed no further in the matter of raising a revenue by such a tax. But the people were not to be cajoled.

Matters continued in this state until the Boston Port Bill was passed by Parliament, by which, for the punishment of the Boston people for the destruction of the tea in Boston harbor, the port of Boston was shut up and the commerce of the town destroyed. This was felt to be a high-handed act, the exertion of imperial power which the colonies would not and could not recognize. All America was immediately excited, and things rapidly proceeded to a culmination. Nothing more unwise could have been done by the ministry, for it was not only felt to be a gross outrage, as, granted that power in the one case, every port in America might, by the stroke of the royal pen, be closed, and America impoverished, ruined, in an instant; but also it excited the sympathies of the people and called forth their efforts to atone for the loss of commerce and trade by gifts to relieve the wants of the martyr city.

Eddis, who was living in Annapolis at this time, being the surveyor of customs there, and getting his impressions from what he saw around him, wrote home, "All America is in a flame. I hear strange language every day. The colonists are ripe for any measures that will tend to the preservation of what they call their natural liberty. I enclose you the resolves of our citizens. They have caught the general contagion. Expresses are flying from province to province. It is the universal opinion here that the mother country cannot support a contention with their settlements if they abide steady to the letter and spirit of their association."

Maryland also immediately moved forward on definite lines. Something was to be done to indicate the purpose of the people, and so on June the twenty-second, 1774, in

the midst of all this agitation, the people of the colony assembled by their representatives in convention, and from that time forth the revolution was completed. The governor, whom they practically dispossessed, was not, it is true, the royal governor, nor did they deny the royal authority; but it was the governor who represented the proprietary Harford. They henceforth controlled their own destiny. This convention was composed of the best and ablest men of the colony, and while their deliberations were without any of the recklessness that might have been feared from a popular assembly convened at such a time, there was in all their actions and resolves clearness and decision of aim. The convention continually extended its functions as the troubles continued, so that at last, though Governor Eden still remained in the colony, it came to be recognized as the expression of the sovereign power and authority of the State.

The resolutions passed by the convention when it assembled were such as no man could mistake. By the first they accepted the cause of Boston and Massachusetts as their own, and proceeded to devise agreements for an entire cessation of trade with Great Britain, both import and export, an irritating defiance offered the king of England, as if Great Britain were more dependent upon America than America upon her. They professed sorrow for the British merchants, possibly a satirical fling, but they must insist on maintaining the dignity and independence of America in the matter in hand. They also refused to send exports to the West Indies, should such a measure be deemed expedient by the General Congress. They provided for the relief of the distressed inhabitants of Boston, now cruelly deprived of the means of procur-

ing for themselves subsistence, by starting a subscription among the residents of the colony. They thank William Pitt and such others as had espoused their cause in England, the patrons and friends of liberty. They appointed deputies to attend a general congress to effect one general plan of conduct operating on the commercial connection of the colonies with the mother country, for the relief of Boston, and the preservation of American liberty. And further they resolved that this province will break off all trade and dealings with that colony, province or town, which shall decline or refuse to come into the general plan which may be adopted by the colonies. This was the Maryland platform.

And that the people meant all that was said by their deputies was soon made evident. For within four months of their assembling a like opportunity was given them to what had before been given to Boston, when a vessel arrived in Annapolis harbor having as part of its cargo a small consignment of tea, or, as the people had learned to call it, "the detestable weed." The question immediately arose, What shall be done with it? The vessel had been duly entered at the custom-house and the duty paid on the tea, so that to forbid its landing and send it back, as was done with the stamped paper, would have been useless for the purpose of protest. Upon this the people came together and forbade its landing, in the first place, and then adjourned to secure a larger meeting of the citizens of the surrounding country. The citizens of Annapolis, however, would not wait for this; and though the owner of the vessel and the consignees offered to destroy the tea and to make ample apology for their conduct, still the people's wrath was not appeased, nor

was it till the owner offered to destroy vessel and cargo with his own hands.

It will be observed that all the parties concerned in the importation knew exactly what they were doing. The agitation of the question had been going on since 1767, the spirit of the people was fully known, and the act of the owners of the vessel could only be construed to be a defiance to the public will, founded possibly upon the notion that the people were not sincere in their declarations. The vessel and cargo were destroyed, burned to the water's edge, and that not by night, nor by masked men, but at the requirement of the best men of the city, publicly, in the light of day.

Public sentiment in Maryland was further exhibited at this time by its course in regard to the resolves of the Continental Congress that met in Philadelphia, September the fifth, 1774. The action of that body was without qualification. It represented the American feeling and the American determination. While loth to break with the mother country, yet continuance of union with her could only be on the one basis: England must respect all rights and the dignity of America. The troubles about this question of taxation had now been going on since the year 1765, and apparently the mother country was as determined to have her own way as ever in spite of all appeals and protests. In fact, misunderstanding the unwillingness of the colonies to proceed to extremities, she had become more and more ruthless in her bearing and conduct. Her assertions of imperial domain had become the more extravagant, and the rights of home government in the colonies had been more and more ignored. New York had felt the royal wrath in



having its assembly suspended because it refused to provide quarters for the English troops. But that was a small matter to what Massachusetts was now called on to endure. Liberties it had enjoyed ever since the landing of the Pilgrims were now canceled, and an old law from the days of the tyranny of Henry the Eighth was brought into force, in empowering the governor to send any persons engaged in the destruction of the tea to England for trial. Troops also were sent to America, and General Gage, the commander-in-chief of the troops, was made governor of Massachusetts. It was imperialism that recognized no rights in the provinces, and we cannot wonder at the position assumed by the Continental Congress.

That position was one in which courage was mixed with conviction. There was no desire to rebel against the mother country, but there was a determination not to yield as slaves. Appeals were made to the king and people of Great Britain, and until those appeals were heeded and responded to, in a gracious and honorable spirit, intercourse must cease. They could even still endure the manifestations of tyranny, but not be a party to it. And so their resolutions of non-importation of everything from Great Britain and Ireland, directly and indirectly. British goods were to be excluded as such, and could not be brought into the colonies from any place whatever. East India teas, also, were forbidden, from whatever quarter of the world they might seek to enter the colonial ports, because they were in the hands of an English monopoly. The congress also resolved against the export of American products, though suspending the operation of this resolution for one year,

after which, if the troubles were not settled, the export of every article from America to Great Britain, Ireland and the West Indies was to cease.

These were radical measures, amounting to absolute and entire non-intercourse. Some thought they might prove a relief and cause an adjustment of differences; but if they failed in that, any one could see that they meant an attempt at coercion on the part of England, and with that a war of desolation, out of which the colonies must come free and independent states, or else a broken-spirited and enslaved mass without a future.

And what did Maryland think of the position assumed? By her convention that assembled the following November she heartily approved all that was done. Her own delegates had contributed to the resolutions of the congress, and they were recognized as voicing the sentiment of the people of the State. Committees also were formed to carry out the recommendations of the congress. Correspondence was kept up between the different portions of the province. Information was diffused as widely as possible and the people kept instructed in regard to every new cause of suspicion or anxiety. Correspondence also was established between this colony and the others, and all matters of general moment in one part of the country were immediately made known in every other part. The British ministry had dreaded this association of the colonies in a congress, and well it might, for the effect at once was to unite the whole country in one common purpose and one common sentiment, and to give it confidence in its ability to withstand the whole power of the British empire.

Things also now moved forward rapidly in Maryland. Expression of the people's will was not to be confined to words. In December, 1774, it was resolved by the Convention that if the act of Parliament in regard to Massachusetts Bay was attempted to be carried out by force, or if the act to tax the colonies was attempted to be executed by force, in Maryland or in any other colony, then Maryland would use her whole power by force to resist such attempt. Farmers, also, were urged to cultivate such things as would be needed in case of war, and the citizens of the colony, between fifteen and sixty years of age, were urged to form themselves into companies, to equip themselves with arms, and to engage in military exercises. The counties, also, were called upon to raise money for the purchase of arms and ammunition. And all this was done. Any one that was indifferent, or supposed to be antagonistic to the common cause, was put under the ban and kept under constant surveillance of the suspicious eyes of the patriots.

In this way matters passed on toward the consummation. The king, as we have seen, was now and had been for several years, and continued to be for years to come, the director of the affairs of England, the power behind the ministry and parliament greater than either of them. Even the will of the English people in the matter of English affairs was ignored and contemned, as the action of Parliament towards Wilkes shows, who was three several times elected by the electors of Middlesex and as often rejected by the House of Commons. The will of the colonies, therefore, could hardly receive consideration at his hands. Their opposition was regarded as rebellion that must be subdued. But contempt was met

with contempt and force was answered with force. England might send over soldiers to intimidate, but the colonies prepared to meet soldiers with soldiers. We know of the Continental army that was organized after the battle of Lexington. Maryland had also her separate colonial organization. Mr. Eddis, before quoted, writing in July, 1775, said "Government is now almost totally annihilated and power transferred to the multitude. Speeches become dangerous, letters are intercepted, confidence betrayed, and every measure evidently tends to the most fatal extremities. The sword is drawn, and without some providential change of measures the blood of thousands will be shed in this unnatural contest. The inhabitants of this province are incorporated under military regulations, and apply the greater part of their time to the different branches of discipline. In Annapolis there are two complete companies, in Baltimore seven, and in every district of this province the majority of the people are actually under arms."

In this state matters continued in Maryland. It was armed expectation, and hope of better things. There was no desire for separation. At any time England could have recovered the loyalty of the colony had it receded from its extreme and profitless assumption. It was stubbornly asserting a privilege which brought it no gain and was already costing it and its merchants vast sums of money. The hope, therefore, was that England would recede. So Maryland declared in January, 1776, that it did not want separation, but only to preserve its rights. Entitled to freedom, however great the love of fatherland, they were determined to maintain that freedom at the hazard of their lives and fortunes.

This hope of escape from a final separation from England controlled the conduct of the Convention for months, after even the people themselves had felt that such an end was now inevitable. The Convention was excessively conservative, and it was only when the people uttered their voice, by public meetings held in various places in the province, that at last the Convention felt justified in taking the final step and authorizing the Declaration of Independence of the colonies, and their erection into free and independent states. But having authorized the delegates to the General Congress to take part in the declaration, Maryland proceeded to make such a declaration herself in her own behalf, calling upon her citizens to join cordially in defense of their common rights and in the maintenance of the freedom of their own and their sister colonies.

Nor was her conduct less clear and determined throughout the struggle. The whole period of active hostilities was a time that tried men's souls. Disaster sometimes followed disaster, defeat in the open field, anxiety in the council, a diminished army, narrow resources for the support of the army, a small and widely scattered population, an immense territory for the carrying on of military operations. It was surely a time that tried men's souls. When we remember the civil war of 1861, and call to mind the anxiety that was often entertained, and that notwithstanding the resources of the country both as regards men and stores; when we also remember the depressing influences of defeat, and how some who were boldest in prosperity became the first to despair, we can get some idea of what must have been the feelings of the period. Only as they were sustained

by high resolves, a consciousness of the issue at stake, and the great rights which were to be forever forfeited by ultimate defeat, could they have endured the long trial.

But they did, and Maryland's record was as bright as that of any of her sister states, and the heroism of her devotion to the cause as definitely sustained. Conservative by nature and by the training of her people, which, as determined by a definite charter, gave certain fixed characteristics to her administration, she was slow in her steps, carried away by no words of the agitation, not whirled along by a sudden and unreasoning enthusiasm. But when the time came to act she was at her post, her sons were ready with their assent to the great Declaration; not acting upon their own private wills, but as deputies duly instructed, upon the will of the Maryland people clearly expressed. And it was that spirit she manifested throughout the whole long, anxious period.

The battle of Lexington, in April, 1775, aroused the country; but the battle of Bunker Hill summoned the levies, and Maryland responded to the summons. And so from that time on Maryland troops were always found in the Continental armies. In the earlier years they distinguished themselves in the North under Washington, as on Long Island, in New Jersey, in Pennsylvania; and in the later years they equally distinguished themselves in the South under Greene, being prominent in every engagement, and often the great resource when danger of defeat was impending. She justified her words by her deeds. Her contributions to the regular army in 1778 were thirty-three hundred men, and during the whole war twenty-three thousand,—being one-twelfth of

the whole number sent out by the thirteen colonies. The war expenses of the State were seven millions six hundred thousand dollars, being two-thirds the value of all her real estate. Her losses in population, also, were exceedingly heavy, being from all causes, slaves carried off, emigration to England and elsewhere, and the casualties of the war, sixty-six thousand in seven years. These figures may be small now, but they were immense then, and indicate her devotion to the cause and the burdens she was called on to endure.

She was blessed indeed in not having the enemy to harry her territory, the operations of the war being carried on either north or south of her; but that only makes her interest and zeal in the cause the more notable. For often a people will rise in their own defense who will be supine when the enemy is at a distance and harrying some other territory. The raising of her regiments being her own voluntary act, her absorption in the cause in hand is altogether manifest.

As an indication of the appreciation in which she was held, we have the following letter from the commander-in-chief to the governor of the State:

TO THOMAS SIM LEE, Governor of Maryland.

Camp near York, Oct., 1781.

Dear Sir:

Enclosed I have the honor of transmitting to your excellency the terms upon which Lord Cornwallis has surrendered the garrisons of York and Gloucester.

We have not been able yet to get an account of prisoners, ordnance or stores in the different departments.

But from the best general report there will be (officers included) upwards of seven thousand men, besides seamen, more than seventy pieces of brass ordnance and a hundred of iron, with the stores, as also other valuable articles.

My present engagements will not allow me to add more than my congratulations on this happy event, and to express the high sense I have of the powerful aid which I have derived from the State of Maryland in complying with my every request to the execution of it. The prisoners will be divided between Winchester in Virginia and Fort Frederick in Maryland.

With every sentiment of the most perfect esteem and regard,

I have the honor to be

Your excellency's most obedient and humble servant,

G. WASHINGTON.



## TENTH LECTURE.

### ODDS AND ENDS OF MARYLAND LEGISLATION.

Covering a period of about one hundred and fifty years, it would be only natural to expect that colonial legislation in Maryland, would exhibit many oddities and peculiarities viewed from the standpoint of our present notions of what strictly pertains to government. Besides, that was an age of transition from the strong paternal government as administered by Queen Elizabeth and others of the Tudor line, to the freer constitution of the British empire, as it was after the Revolution in England, and as it has expanded within the present century; and on this account we might expect to find striking incongruities. We do find such, in the American colonies as everywhere else.

But the position of Maryland was peculiar, both as to the nature of her government and the character of her allegiance. These fostered a more independent spirit, so that advanced notions concerning personal and political freedom found more readily a home within the colony than in the adjoining regions. Such things as the burning of witches, and the hanging or whipping of Quakers, and the expulsion of nonconformists in religion from her borders, were practically unknown. It is true the air was filled with monstrous notions as to the propriety of these things, and the archives of Maryland indicate that her people felt in some measure the contagion; but practically the Quakers were free from

active persecution, the witches plied their instruments of torture and raised their storms or dashed hither and thither on broomsticks, and no one became aware of the fact. And though recusants might feel the weight of public disapproval in the loss of political franchise, yet their life and property were safe and the private or public enjoyment of the liberty of worship was secured.

For meeting-houses of various names were found everywhere, or else chapels on private estates, where master and servant and family and neighbor might assemble to enjoy unmolested the rites of their peculiar worship. The legislative record of Maryland will compare more than favorably with that of any government on earth for the time extending from 1634 to the end of the American Revolution. There was enough to show that her people were of English blood and training, but yet divergence enough also to show a diverse and greatly elevated tone.

In these latter days when the anxiety of lawmakers seems to be to make the way of the transgressor as little uncomfortable as possible, when malefactors are housed and warmed and fed with a care that would do honor to an institution where the most estimable of the poor were to be entertained, when science is brought to bear for appliances that shall make the taking off of even the most brutal as painless as possible, we are a little apt to be shocked by what we read of two hundred years ago. For they were not by any means so careful then, and dealt out their inflictions with a liberality and an openness of hand that would horrify our fastidiousness. A drawing, hanging and quartering was then one of the sights of the day, for which gentlemen and ladies of

rank and refinement sought choice positions for observation.

Possibly they had not so many means of amusement as we have, and possibly they were a little nearer to nature in the rough. But so it was. And also they had many more opportunities of amusement of this kind, as capital punishment was dealt out with a liberal hand which rather amazes our present minds. Felonies, in which life and limb were the penalty, were far more numerous than our laws create. Our philosophical philanthropists tell us that the prevalence of the death penalty created the criminals, that men can get so used to seeing other people die,—drawn, hanged, quartered,—that they the more readily yield themselves up to the same attractive process. All we can say is, their processes belonged to their day, ours belong to ours, both probably wise in our generations.

But not only of capital punishment. There was a certain shamelessness about all penalties. A criminal now finds his refuge in prison, shut out from the gaze of passers-by. But not so then. The pillory and the stocks were very common instruments for the punishment of slight misdemeanors, and were set up at convenient places throughout the colony. Every court-house was to be provided, and sometimes, when the court-house was too far off, a position near the church was selected as well. We shall see a little later on for what class of misdemeanants this place was chosen. The ducking-stool also was set up in the most convenient place of each county. This was for the accommodation of scolds, and doubtless even the sight of it had a cooling influence upon a hot temper. Certainly after one

experience the sight or mention would be sufficient. For there never was a scold yet, man or woman, that a sudden bath of cold water would not cure. The ducking-stool was a most beneficent institution.

Another instrument ordered at the same time with the above, namely in 1663, was the branding irons, one with the letter R, another with the letter H. One reason given for these instruments was that the colony had not houses—that is, penitentiary and jails—for imprisoning evil-doers, and so such means of punishment had to be pursued. That was a reason for urgency, it is true, and commanders of the several counties were ordered to proceed in providing such instruments, under penalty for delay. But beside that, it suited the temper of the time.

The laws, however, went a good deal farther than this. For in 1650 it was enacted that if any one gave false witness under oath, or suborned another to perjury, he should be nailed to the pillory and lose both ears, or put to other corporal shame or correction as the court should judge. And if any one struck an officer or witness or any other person in presence of the court, he was to lose the offending member. That surely was hideous and at the same time exceedingly foolish, as the effect of the punishment could only be to expose the sufferer to pauperism as well as to perpetual shame. It is evident in all this that Christianity, however much it had leavened the private conduct of men, had not gotten down to the political administration of society. Another instance of the kind was presented in the ordinance by which, when persons were charged with mutinous and seditious speeches or practices, or when attempts, with-

out force, were used, tending to divert the obedience of the people from the Rt. Hon. Cecilius Calvert, or the governor of the province, and were found guilty, their punishment could be imprisonment during pleasure, not exceeding one whole year, or fine, banishment, boring of the tongue, slitting the nose, cutting off one or both ears, whipping, branding with a red-hot iron in the hand or forehead,—any one or more of these as the provincial court might think fit.

But we have not got down to the bottom yet. The recklessness with which the death penalty was administered is amazing, and that with very extravagant brutality. In 1642 it was made a felony if any indented servant should run away from his or her master, and for any one also knowingly to accompany such runaway; and the penalty was hanging. The lord proprietor, it is true, or his lieutenant-general, had the power to commute such punishment, though in that case the penalty could not be for more than seven years' service; so that a man's life, according to the standard of the time in the province, was valued at seven years' servitude and might be a good deal less. Human life was, therefore, exceedingly cheap.

The temper of those times is strongly brought out by the proposed enactments in the Assembly of 1638-9, which, however, did not become laws, though read a second time and ordered to be engrossed. According to one of these, treason might be against the king, the queen his wife, or against his son and heir, and it might be committed by levying war, adhering to a foreign prince or state, such being a declared enemy of the king, or by counterfeiting the king's great or privy seal or his

coin. Or, again, it might be against the lord proprietary, or his lieutenant-general within the province, and it might be committed by adhering to the Indians or any foreign prince for making war upon the colony. This was the crime. And the penalty was drawing, hanging, quartering of the man, and the drawing and burning of a woman,—not quartered, I suppose, because the stake did not leave any subject for the axe. A man, however, who was wealthy enough to own one thousand acres of land, the lord of a manor, was to have the indulgence of being beheaded.

We have all heard of the benefit of clergy, which meant that if any one possessed such learning as might reasonably be required of a clergyman,—and the standard was not high,—he was to enjoy certain privileges before the law. We have this recognized at this time by the legislators of Maryland; for at this session, after describing certain felonies, the penalty of which was hanging, the proviso was added that if the offender can read clerk-like, in the judgment of the court, then instead of hanging he shall lose his hand or be burned in the hand or forehead with a hot iron, and shall forfeit all his lands, saving to the wife her dower. The benefit of clergy was not therefore immunity. It only saved one from the halter for the first offense, but sent him out branded with indelible marks of infamy. A man that was worthy of the “benefit” would prefer probably to do without it.

The character of the offenses, also, took a wide range. Burglary, robbery, and such as belong to all criminal legislation, of course, are recognized, and probably everything that is recognized now as a crime was recognized then, with more beside; so that the wisdom of later

legislators has been chiefly manifested in lopping off, pruning down the offenses embraced in the criminal code. Slandering, backbiting, "scandalizing the good name" of any one, was severely punished. Blasphemy, "idolatry, the worshiping of a false God," polygamy, sacrilege, sorcery, sodomy, rape, all are instanced, and the penalty hanging. Blasphemy was always abhorrent to the colonists; and again and again in the course of the provincial history do we find the Assembly doing what it can to repress it. The act concerning religion of 1649 is a fair representation of the tone and spirit of the province on this, as on other matters, and in it hanging and the forfeiture of goods are provided for any that "blaspheme God, that is, curse Him, or deny our Saviour Jesus Christ to be the Son of God, or deny the Holy Trinity."

As far as legislation went, the doctrine and the practice of the people were abundantly cared for. But the people must have had a strong propensity to wander, seeing so much legislation was necessary. Though in bar to that it must be remembered that in the beginning it was a "general assembly," that is, everybody sat in it, and legislation was only a provision against what might be. If all reports, however, say true, the legislation was not found to preserve either the religion or the morals inviolate.

The colonists evidently soon became jealous of courts, juries and lawyers. They made a good law in 1642 in the matter of debts, providing that if any man who had been accustomed to labor should make a debt which he could not pay, the creditor could require his personal service to the amount of his debt, the creditor mean-

while being required to provide necessaries for the man's family. It saved the poor debtor from prison. Others, who were above the condition of personal service, might be imprisoned according to the barbarous usage of that day and for many years after. They also endeavored to prevent a litigious spirit by making the risks heavy, so that whosoever might be cast in a case, plaintiff or defendant, should be subject to a fine. It was a severe law, for it took for granted that the man that lost ought to have known that he had no case; whereas where is the man that goes to law that does not believe that he has a right to recover? While how many, also, do fail of a fair award, not because their cause is not good, but because in their case law, or precedent, or custom, or the stupidity, not to say dishonesty, of the judge or jury may be against them? It was something like that old Greek law that required that every man who would propose an amendment to the code, should do it at his peril with a rope around his neck, to become a halter if his proposition was rejected.

In the same line was another act passed in 1642, by which, if when a jury rendered a verdict, the judge had reason to believe the jury partial or wilful, he might charge another jury to enquire and try by the same evidence, and if they should find contrary to the former jury, all the former panel might be fined at the discretion of the judge. The jurymen's office then was not a sinecure, for he had not only to care for the party involved, but had the additional care for himself. He was, as it were, a possible party in every case.

Nor did they have much more faith in attorneys than they had in the parties in a suit or in the jurymen. As



the whole administration of justice was in Lord Baltimore's hands in virtue of his patent, we are not so sure as to their faith in his judges, for all such were appointed by him. In respect to the attorneys, they expressed themselves freely. In 1669, incident to the impeachment of a lawyer for receiving a fee for furthering the cause of the plaintiff till he had recovered his property, and then receiving a further fee from the defendant to replevin the same, a joint committee was appointed by a conference of the two houses of the Assembly to report on the grievances of the colony, the fourth clause of which was "that the privileged attorneys are one of the grand grievances of the country."

Nor was this only a spasmodic burst. Five years after an act was passed by the Assembly, in which it was declared that many of the good people of this province are much burthened and their causes much delayed by the abuse of persons practising as attorneys and by the excessive fees exacted; and also by the great number of attorneys, whereby many and unnecessary and troublesome suits are raised and fomented. The act was entitled an Act to reform attorneys, councillors, etc. And then the act went on to provide that a certain number of honest and able attorneys be admitted, nominated and sworn by his excellency the captain-general to be attorneys, councillors, etc.; all others being forbidden to practise.

And the further provision was made for the highest fees allowable for each and any case in the several courts of the province; that for the court of chancery being eight hundred pounds of tobacco, for the provincial court four hundred pounds, for the county court

two hundred pounds. Further provision was also made for the heavy punishment of any attorney that should receive fees beyond the amount allowed, the fine being two thousand pounds of tobacco and the disbarring of the offender in the courts of the province. Lawyers, however, have never been a favorite, though maybe a favored class with the people, being a necessary evil in the present disjointed world whom the people cannot do without and do not want to do with; and they the people have consequently avenged themselves by abusing them upon every occasion.

Among the laws of the colony there are frequently found enactments providing for the observance of Sunday, for temperance, for morality. As regards the first, they never went as far as was done in the Puritan colonies of the North, though the desecration of the day by fishing, gunning, drinking and kindred methods of indulgence was always reprobated. Kissing one's wife was not regarded as a heinous violation, and consequently was not visited either with fine or flogging. In this the Maryland code was more liberal. At one time an attempt was made to compel church-going, but that soon came to nothing; for the churches were inaccessible to the great body of the people, and, besides, there was not enough of them to accommodate even a fourth of the people.

The temperance laws, however, were of a practical character, and were probably to a large extent enforced; that is, temperance, not total abstinence. For this at the time was an unknown question in the colonies as well as in the mother country. Liquor was used almost universally, and, as we would say, almost excessively in all

classes of society. In Maryland we find a church vestry adopting a standing order for one quart of rum and lemons and sugar equivalent, for every vestry meeting, to be paid for out of the church funds; and in England, in the palmiest days of Queen Anne, the best men of the day thought it no disgrace to drink themselves under the table, and that regularly; and long since that time "drunk for a penny and dead drunk for twopence" was the attractive sign over the gin-shops of London.

Still in Maryland they tried to restrain. And they began with the drinker. Drunkenness was punished, one of the first laws of the province providing that for "drunkenness, which is drinking to excess to the notable perturbation of any organ of sense or motion," the offender shall forfeit to the lord proprietary thirty pounds of tobacco or five shillings sterling, or otherwise shall be whipped or by some other corporal shame or punishment corrected for every such excess at the discretion of the judge. If the man was a servant, and not able to pay the fine, he was to be imprisoned or set in the stocks or bilbos, fasting, for twenty-four hours. Subsequent laws made the punishment even more severe; that of 1658 providing that for the first offense the punishment should be six hours in the stocks or a fine of one hundred pounds of tobacco; for the second, whipping or three hundred pounds; and for the third offense and conviction the offender was to be adjudged a person infamous, and as such incapable of voting or bearing office for the space of three years. That such a law was not a *brutum fulmen* one of his lordship's councillors, Thomas Gerard, discovered; for it being proven that he was intoxicated, he was banished the province and all his

property, real and personal, forfeited. The governor remitted the banishment, but his other losses were allowed to stand.

Beside treating the drunkard in this way, they tried also to restrain liquor-selling. Ordinaries were opened in various parts of the colony, one being in the State House itself; but care was taken that only persons of good character should be licensed to keep them. This is different from the present rule in Maryland and in most other places; for nothing is easier than for any man to secure a license. If he abuses his opportunity, and his ordinary becomes a nuisance, his license may be taken away. Though this rarely prevents a man from going on, some one being found to take out a license in his own name for the other's use. Attempt was also made to restrict the number, and limit by name, the places where the ordinaries could be kept. They looked upon liquors as they looked upon lawyers, as above noted, as a necessity, believing that danger existed only in the superabundance, whether of drink or drinking houses, and that it became them to provide against the excess.

And as of liquors so of morality in general. Lewdness was suppressed as far as possible. There were among the immigrants to the province from the beginning some who were low in morals as they were in intelligence. Even the marriage of white women with negro men was not unknown, but was looked upon with such horror that any woman so doing became by the marriage a slave during the life of her husband, and the children slaves for life, as their father was. Law, not anarchy, was predominant in Maryland from the start, but it had

a heavy load to carry. It did wonderfully well to maintain its balance as it did, with the constant incoming tide, often of the offscourings of the old world. But though with difficulty, yet it struggled along, and at last was able to hand over into better times a people taught so to recognize law that for its maintenance they would give up all beside.

What was the bearing of Maryland toward the Quakers? I ask this question because it is a crucial one in determining the spirit of Maryland in regard to religious liberty and religious prejudice. We know how they were treated in New England, beaten and hanged, imprisoned and compelled to suffer cold and hunger to a degree almost beyond belief; while their persecutors were not the brutal mob who in their ignorance would do anything for excitement's sake or to gratify a savage passion. Those who persecuted the Quakers in New England were the best and most honored in the land. Why did Marylanders not do the same? Did they love religion less? Not by any means. Though the great majority did not enjoy religious privileges as they were possessed in the Northern colonies, yet that was their misfortune, not their fault. The revenues of the province went into the pockets of a man who claimed them as his right, and who by his religious creed and private interests combined, was constrained wholly to neglect the religious welfare of the people, save of the few of his own faith. The people also were so scattered that combination was almost impossible, while also even among the majority there was such diversity of religious belief that voluntary association for the support of any one church was impossible. But as soon as opportunity

was offered on the Protestant Revolution, we see their longing and resolute desire to have all the facilities for religious worship.

Maryland differed from the New England colonies in her treatment of the Quakers, because a political and not a religious basis was that on which she stood. It was with the eyes of statesmanship, and not of narrow religious bigotry that she looked at the question. And her claim to religious toleration rests far more on such a spirit as exhibited in such circumstances, than on the mere Act Concerning Religion, that is filled rather with curses than benedictions. She had been, and was, and continued to be, tolerant of all classes and names of Christians, when that law was promulgated. It only expressed what was the political faith of Maryland from the beginning.

It is true, as was stated in the beginning of this lecture, that Maryland passed her laws, or rather orders, for it was the work of the Council and not of the Assembly, against Quakers; for it was with them as with the early Christians, a sect that was "everywhere spoken against." It is also to be remembered that in 1658, when the greatest jealousy of the Quakers was manifested, the Puritan influence was predominant in Maryland, and that Governor Fendall, who was the adherent and mouthpiece of that influence, was the executive of the colony during the period when the various orders were passed. It was at this time the extreme violence raged in Massachusetts, three victims having perished in 1659 and 1660, and the last one on March the fourteenth, 1661. It is doubtful, however, whether even such persistent offenders as Thomas Thurston and Josias Cole ever felt the lash, against whom chiefly were the orders issued. The chief complaint also

against them was not concerning their religious belief, but their contempt of court, in that they would not remove their hats, and would not take the oath in legal proceedings. Also, they would not, according to the requirements of the law, make their engagement faithfully to obey the laws of the province, an obligation required to be made by every one coming to reside within it.

On the other hand, in 1665, we find three Quakers in a board of seven land commissioners of one of the counties, appointed to this office by the governor and council. This was the same year when Massachusetts, under Governor Bellingham, renewed in a milder way its persecution of the five years previous. In 1676, or about that time, Wenlock Christison, famous for his fortitude and sufferings, who had now finally come to Maryland, where he ended his days in peace and prosperity, was elected to the lower house of the Assembly. After him others were found holding the same office, as well as that of justice of the peace in their various counties. Maryland's record, thereafter, in this stands eminent.

Nor does it stand less so when we look at the subject of witchcraft. However it may be argued, whether Maryland did not fear the Devil so much, or whether it was less loyal to the Almighty than her New England contemporaries, cannot be determined. Maryland people believed in witches, as all the world did. It was deeply imbedded in the religious consciousness of the day the world over. Even John Wesley said, long after this time, that he who would give up witchcraft must give up the Bible. Even the witches believed in witchcraft, and would confess they were witches, in spite of all the penalties. Nor is the old belief entirely out of date now, but many, we hope only

among the ignorant, regard with awe and hatred those whom they regard as the ministers of Satan. But everybody believed in witches two hundred years ago, and grave and learned divines led in the crusade against these Devil's ministers.

Now, what is Maryland's record? There is no use or pleasure in reviewing the world's record. It is too awful, too sad. As far as is known, never a witch suffered within the Maryland borders. In the year 1654, during a stormy passage to Maryland, the sailors on board the ship "Charity" (a misnomer in this case) became convinced that they must have a witch on board who was the cause of the storm; and choosing a little old woman, they forthwith proceeded to examine her, and, of course, to find reason for condemning her. For in such cases, as in many others in all the ways of life, examination is condemnation. Moved either by malignity or fear, we can find what we are looking for. They put her to death and cast her body and all that belonged to her into the sea, and still the storm blew on with undiminished violence.

There was one case in Maryland itself, when a certain John Connor was convicted of witchcraft. But instead of his being executed, at the strong urgency of the lower house of the Assembly, he was reprieved and his death sentence changed into indefinite service to the governor and council, apparently to do such chores as came to hand, during the pleasure of the governor.

That ends the whole witchcraft episode, and what a contrast to what was seen everywhere else! Why was it? They all believed in witches, and in the charges given from time to time to justices of the peace and other officers, was this of enquiring about witchcrafts, enchant-



ments, sorceries, and magic arts. But, somehow, the faith and the practice did not agree. This was in 1675. It was in 1692, it will be remembered, that the Salem tragedy was enacted at which the mind revolts. Why was it that Maryland differed so from the rest of the world? The reason probably is the same as in the case of the treatment of the Quakers. The policy of the colony rested upon a broader basis, statesmanlike politics and not religious bigotry, a policy that was observed in the colony to the end of the colonial period.

There is one subject it would be pleasant to be able to omit: Maryland's treatment of the Indians. For in this she was not better than the other colonies. Injustice, cruelty, brutality too frequently inspired her legislation and her conduct. She feared the Indians, and her fear blinded the eyes of her administrators to their rights and to the commonest principles of justice and humanity. This policy was pursued until even the small band of peaceful Indians who sought to dwell on good terms within the territory, which had once been all their own, gradually disappeared. Whether God's vengeance has yet overtaken this nation for all its barbarity to the aborigines of the country, is a problem which the coming time will have to solve.

Another subject also I would be glad to omit, the legislation concerning the Roman Catholics after the days of the Protestant Revolution. They were but a small minority of the people, dividing with the members of the Church of England one-fourth of the whole population. This was the testimony of Lord Baltimore. Still, however, though so small a fraction, they were feared. Anxiety was from time to time expressed that they would rise and,

combining with the Indians or with the French, would work havoc in the province. And the consequence was, they were always repressed and the means sought to prevent their increase in numbers.

Thus they were defranchised by the Test Oath, after Maryland became a royal colony, a disavowal of transubstantiation being requisite for the enjoyment of the political privileges of citizenship. In 1704, by an act of the Assembly, it was sought to prevent the growth of popery by forbidding the exercise of spiritual functions by the Roman priesthood. Also members of that church were forbidden to engage in teaching the youth of the colony. At the same session, however, this severity was mitigated by permission granted for spiritual ministrations in private families and private chapels. In 1715 a severe law was passed, by which if a Protestant father died, and his widow should be a Roman Catholic, the children should be removed from her custody, "to save them from popery." The expense of their education was to be borne by their father's estate. In 1716 and 1718, after the rising in England in behalf of the Pretender, the sensitiveness and fears of the people of the colony were indicated by a renewal of the restrictive laws, so that if a person was suspected of being a Roman Catholic, the Test Oath could be administered as a qualification for voting.

Also, early in the century, dread was excited by the introduction of Roman Catholics from abroad, and a tax was imposed by the legislature of 1708, of twenty shillings upon all Irish servants of that faith brought in. Down later in the century, at the beginning of the French War, an attempt was made, in providing for the expenses of the war, to lay a double tax upon the Roman Catholics. The

upper house would not consent to this, and so it never became a law. But it shows the animus of the people. The motives for this attempt are said to have been twofold; first, that the French and the Roman Catholics were associated in the people's minds as equally enemies of the province, because of their common religion; secondly, that certain persons were specially offensive to the lower house, whom it was its desire to reach.

Such things, however painful, are facts, growing out of the suspicions and bitter feelings of the day. The Revolution, both in England and Maryland, had its origin in the dread and abhorrence of Romanism as exhibited in the despotism of James the Second and the persecuting zeal of Louis the Fourteenth in the revocation of the edict of Nantes, and the horrible sufferings of the Huguenots. It is, therefore, not to be wondered at, though it is to be deplored, that the people stood in constant dread and vented their fears in acts of injustice and violence.

I have referred in a previous lecture to the Act of Establishment of the Church, and to the subsequent acts passed, until the purpose of the people was consummated. For it took the people ten years to frame an act that should be pleasing as well to the king of England as to the inhabitants of the province. As it was something, however, which they were determined to have, they persisted. I only refer here to the matter again to call attention to certain minor features of the law, and to other laws subsequently passed bearing upon the same matter.

The purpose of that law was the moral and religious regeneration of the people, in which points the state of society was said to be extremely bad. Nor can there be a doubt but what it was true, and there was nothing to

make the condition otherwise. Religion and education had both been grossly neglected, and as a consequence all the attempts that the Assembly had been making from the beginning to restrain blasphemy, profane language, drunkenness, and other forms of vice, and to promote a due or any observance of the First Day, had been utterly null and void. Pains and penalties are not qualified for moral or religious ends.

And the Church was effective for the end proposed, because the law armed it in every way for this purpose. For, first, the vestry as a body were the custodians of morality and had certain power to rebuke and warn, and then to inform against if the warning were not heeded. The Church was also used to keep the laws bearing upon immorality constantly before the people, for it was made the duty of the rector of the parish, who was chief vestryman, to read publicly, four times a year, the laws of the province forbidding swearing, drunkenness, and the violation of the Sabbath Day by work, fishing and gunning; and if he failed to do this, he exposed himself to a fine. We can see what a salutary effect this must have had in preserving a knowledge and standard of morality. It compelled the people to remember what was law and duty, and it was a constant warning to all who could not be influenced by a sense of duty, but who might be by a sense of fear. It also made wickedness shameful. We have seen before what was the jurisdiction of the vestry in certain cases of immorality.

But the Church, as a political institution for the suppression of vice, went farther. Under the law as finally passed in 1702, the vestry and wardens were to meet monthly, and doing so, they could bring together the

results of their observation since the last meeting, and report any violation of the laws that might have come to their notice. Vestries now have charge of the secular affairs of their churches, and often so little concern is felt for these things, that no one outside their own body knows or can readily find out who compose the body. But not so in those days. The vestry had its own pew in the church; they were supposed to sit together in a seat of honor and authority, and they were thus kept before the eyes and minds of the people as officers with certain definite duties.

And their office they carried out with them into the parish daily life, as much as the minister carried his. This was strengthened by the law of 1723, which forbade swearing or drunkenness in the presence of a vestryman or churchwarden, under penalty of fine, whipping, or sitting in the stocks. The churchwardens had also the power of preserving the peace in and about the church, even to the point that if any one persisted in violating good order, he might then and there be arrested by the churchwardens and put in the stocks, of which, in some instances, a pair was set up near the church for such emergencies.

The ideal church establishment then, as the men of 1692 presented it, was an excellent one. That the ideal did not become a practical fact, is very true, as human ideals rarely or never do. The purpose, however, was worthy, and the need was imperative, and the success attained was highly beneficent to the moral and religious welfare of the whole community. The method would be strangely anomalous in our day, but the men of that day knew and adhered to what they saw was best for them.

With this we close the review of the State's earliest history. Much might have been said that has not been, and some things, may be, left out that have been said. The purpose has been to give a series of pictures of the period, the century and a half from the founding of the colony to the time when England acknowledged that she could not longer call the colony her own. It was a growth from infancy to manhood, with the vicissitudes that belong to all transitional life. There were days of passion and violence, days of petulance and irritation. There were many acts of folly, and many of violence and injustice. Many things blur the glory and blot the page that might record them, especially as regards the Indian and the Roman Catholic. Sometimes a cringing spirit was manifested, as when in the extravagance of adulation they approached the throne of James the Second, on the birth of his son, and then with as enthusiastic adulation glorified William the Third as the defender of the Protestant faith and the liberties of the empire.

- Still, these things were only incidental, not essential. The people were the victims of their times, while their true, robust character was indicated by their progress through the circumstances of their day always toward a higher and nobler manhood, vindicating their rights against those who, in the front or on either hand, would retard their progress. King, proprietary, local influences in the province itself, all attempted to bar the way, to reduce the people to their will. The struggle also might be long; dissension, disputation, contention might last through years. The issue, however, was always the same.
- The consistent and courageous maintenance of principle always ensured success.

For this reason the sons of the old commonwealth need not fear to scan closely. Their old parent is worthy of all honor. Whether as a lone province with peculiar institutions struggling toward her own broad conceptions of liberty; or whether as one of the galaxy of colonies, maintaining by cohesion with them the rights of free-born men to life, liberty and the pursuit of happiness, irrespective of the dictation of any foreign potentate; or whether as a state making up, by voluntary surrender of all individual rights that might stand in bar, one great and glorious nation, along with all the other states of the perfect union, it is the same: Maryland is worthy of the honor of her sons. Let it be the effort of her sons to preserve always inviolate the honor that has been transmitted to them by those that struggled and achieved in other days.





## APPENDIX.

### CHRONOLOGICAL TABLE OF EVENTS CONNECTED WITH HISTORY OF MARYLAND.

- 1617. George Calvert made Knight.
- 1619. George Calvert made Secretary of State.
- 1620. George Calvert championed royal pretensions in Parliament.
- 1620. Pension bestowed on George Calvert by King James, of 1000 pounds sterling a year.
- 1621. The estate in Ireland bestowed on George Calvert by the King.
- 1623. Charter of Avalon granted George Calvert.
- 1624. George Calvert avowed conversion to Roman Church.
- 1625. George Calvert Member of Privy Council.
- 1625. George Calvert made Baron of Baltimore.
- 1625. James the First died.
- 1631. Kent Island settled by Claiborne.
- 1632. George, first Lord Baltimore, died.
- 1632. Charter for Maryland given, June 20.
- 1633. Answers to anticipated objections prepared by Provincial of Jesuits.
- 1633. Colony sailed for Maryland, Nov. 22d.
- 1634. Colony landed in Maryland, March 27th.
- 1635. Battle between Kent Islanders and St. Mary's people.
- 1635. First Assembly of the province. Proceedings disallowed by Lord Baltimore.
- 1637-8 Session of Provincial Assembly.

- 1638. Leonard Calvert, Governor, adjourned Assembly of his own prerogative.
- 1638. Kent Islanders reduced to submission.
- 1638. William Lewis fined for forbidding servants to read Protestant books.
- 1638. Through this period Governor exercised prerogative of summoning particular persons to the Assembly.
- 1639. First act for the restraint of liquors.
- 1640. Troubles with Jesuits began.
- 1641. Questions propounded to Jesuit priests concerning claims of the Roman Church.
- 1641. Father White's "Twenty Cases," also "Memorial."
- 1641. Permission given to Lord Baltimore by the "Sacred Congregation," etc., to remove the Jesuits, and to grant a prefect and secular priests.
- 1641. Rosetti, Archbishop of Tarsus, to have charge of Maryland.
- 1641. Conditions of Plantation issued, enforcing statute of mortmain.
- 1641. "Points" to which Lord Baltimore required subscription.
- 1641. Provincial of Jesuits executed release of all lands held in violation of statute of mortmain.
- 1641. A form of agreement proposed by Jesuits.
- 1642. Order dismissing Jesuits revoked.
- 1641-2. Cruel treatment of Indians.
- 1642. Indian War.
- 1642. Petition of "Protestant Catholics" against Thom. Gerard.
- 1642. Assembly passed resolution: Could not be adjourned without its own consent.

- 1643. Leonard Calvert sailed for England.
- 1644. Leonard Calvert returned to Maryland, September.
- 1644. Claiborne recovers Kent Island.
- 1644. All leading offices in hands of Roman Catholics.
- 1645. Claiborne and Ingle's rebellion; continues almost two years.
- 1645. Father White sent prisoner to England.
- 1646. Governor Calvert recovers the province.
- 1646. Port and tonnage duties granted by Assembly.
- 1647. Leonard Calvert dies, June 9th.
- 1648. William Stone, governor. His oath first contains pledge not to discriminate on account of religion.
- 1648. Puritans ordered to leave Virginia.
- 1648. Governor and majority of Council Protestants.
- 1649. Charles II proclaimed by acting Governor Greene.
- 1649. "Act Concerning Religion" passed.
- 1650. Assembly to sit as two houses.
- 1650. Parliament recognizes Lord Baltimore's title.
- 1650. Anne Arundel County erected.
- 1652. Governor Stone submitted to Commonwealth Commissioners.
- 1652. Expedition against Eastern Shore Indians.
- 1654. Battle of the Severn.
- 1654. Cromwell proclaimed Protector.
- 1654. Investigation concerning execution of Mary Lee, witch.
- 1654. Maryland in hands of Parliamentary Commissioners.
- 1654. Calvert County erected.
- 1657. Quakers began to appear in Maryland.
- 1658. Province restored to Lord Baltimore.

- 1658. Fendall, governor.
- 1658. Assembly henceforth sits as two houses.
- 1658. Voting by proxy or in person ceases.
- 1658. Charles County erected.
- 1658. Proclamation against Quakers. Order of Council.
- 1658. Francis Fitzherbert accused of proselyting to Roman Church.
- 1659. Fendall's treasonable intrigues.
- 1659. Baltimore County erected.
- 1660. Proprietary government re-established.
- 1660. Population, 12,000.
- 1660. Charles II proclaimed, November.
- 1660. Philip Calvert, brother of proprietary, governor.
- 1661. Talbot County erected.
- 1661. Act to create a mint. Shilling to be equal to ninepence sterling.
- 1661. Navigation Act passed by Long Parliament, enforced by Charles II.
- 1662. Charles Calvert, governor, son of proprietary.
- 1662. Agitation of question of application of English statutes.
- 1665. Quakers holding minor offices in Maryland.
- 1665. Population, 16,000.
- 1666. Somerset County erected.
- 1666. Acts of Naturalization.
- 1666. Treaty with Indians.
- 1669. Dorchester County erected.
- 1671. Population, 20,000.
- 1672. George Fox in Maryland.
- 1674. Cecil County erected.
- 1674. Restraint upon ordinaries,—taverns.
- 1674. John Connor condemned for witchcraft.

- 1675. Thos. Truman's brutality to Indians.
- 1675. Cecilius Calvert, second Lord Baltimore, dies.
- 1676. Charles, third Lord Baltimore, returns to England.
- 1676. Cecil, infant son, nominally governor.
- 1676. Rev. Mr. Yeo's descriptive letter.
- 1678. Thos. Notley, governor.
- 1680. Charles Lord Baltimore returned to Maryland.
- 1681. Charter of Pennsylvania given.
- 1681. Qualification of voter, to be a freeholder.
- 1682. The Lower House refused to receive members of the Upper House wearing swords.
- 1683. Conditions of Plantation ceased to be operative.  
Land to be purchased henceforth.
- 1684. Lord Baltimore returned to England.
- 1684. Benedict Leonard, infant son, nominally governor.
- 1684. Lord Baltimore ordered by king to put all offices in the hands of Protestants.
- 1687. *Quo warranto* issued by James II against Lord Baltimore.
- 1688. Proprietary by proclamation relieved Quakers of oath in testamentary cases.
- 1688. President of Lower House represented the extremely immoral condition of colony.
- 1689. Protestant Revolution.
- 1689. Declaration of Protestant Association printed on printing press in the colony.
- 1692. Maryland became a royal province.
- 1692. Sir Lionel Copley, governor.
- 1692. "Act for service of Almighty God and the Establishment of the Protestant Religion."
- 1692. Quakers allowed to "affirm."
- 1693. Sir Edmund Andros, governor.

- 1694. Sir Francis Nicholson, governor.
- 1694. Annapolis made seat of government.
- 1694. Act for maintaining free schools.
- 1694-5. Epidemic among cattle and hogs.
- 1695. Public post established between Potomac and Philadelphia.
- 1695. Prince George's County erected.
- 1695. Second act for maintaining free schools.
- 1695. Gov. Nicholson proposes a Bishop, with a seat in the Upper House.
- 1696. King William's School founded, Annapolis.
- 1697. King William presented library to Annapolis.
- 1699. Nathaniel Blackistone, governor.
- 1700. Indian troubles on borders of Maryland.
- 1702. Provisions of Toleration Act extended to colony.
- 1704. John Seymour, governor.
- 1704. Test Oath imposed, abjuration of Pretender's claims.
- 1706. Queen Anne's County erected.
- 1706. Toleration Act of William and Mary fully introduced.
- 1709. Lloyd, governor.
- 1710. Population, 30,000.
- 1714. John Hart, governor.
- 1714. Benedict Leonard Calvert, fourth Lord Baltimore.
- 1715. Proprietary government re-established.
- 1715. Charles Calvert, fifth Lord Baltimore.
- 1715. Population, 44,000.
- 1716. Various test oaths introduced from England. The year after the "Rising."
- 1717. Export duty on tobacco to proprietary in place of quit-rents, temporary.
- 1720. Charles Calvert, governor.

- 1721. Scotch prisoners come in.
- 1722. Question of application of English statutes; lasted ten years.
- 1723. Act passed for free schools in each county.
- 1727. Benedict Leonard Calvert, governor.
- 1728. Town of Baltimore created.
- 1731. Sam. Ogle, governor.
- 1732. Charles Lord Baltimore in colony and acting as governor. Governor Ogle succeeds him.
- 1733. Fees of office established by proclamation.
- 1735. Decision rendered in matter of boundary between Lord Baltimore and Wm. Penn.
- 1739. Dissensions about proprietary's revenues; also about settling fees by proclamation; also the establishment of new offices with fees.
- 1740. Attempt against the Spanish settlements.
- 1742. Thomas Bladen, governor.
- 1742. Worcester County erected.
- 1745. Maryland Gazette started, Annapolis.
- 1748. Frederick County erected.
- 1748. Population, whites 94,000, blacks 36,000.
- 1751. Frederick Lord Baltimore succeeds his father.
- 1753. Horatio Sharpe, governor.
- 1754. Commencement of French War.
- 1755. Indian ravages.
- 1755. Braddock's defeat.
- 1756. Population, whites 107,963, blacks 46,225.
- 1757. Indian hostilities, western part of Maryland.
- 1758. Capture of Fort Duquesne.
- 1761. Population, whites 114,332, blacks 49,675.
- 1761. Tobacco shipped annually, 28,000 hhds.; value, 14,000 pounds; other exports, value 80,000 pounds currency.

- 1761. English imports, 160,000 pounds.
- 1761. Iron manufactured, 2500 tons pig, 600 tons bar.
- 1763. Close of French War.
- 1765. Proprietary's revenue from Port duty, £1000 sterling; Tobacco duty, £1543; Fines and forfeitures, £400.
- 1765. The Stamp Act passed, March 22d. September, Maryland seized first possible moment to protest against Stamp Act. Stamp distributor burned in effigy in various places. September, Commissioners appointed to general congress at New York.
- 1765. October: General congress met. Governor Sharpe declares it impossible to execute Act. November: Frederick County Court declares Act unconstitutional.
- 1766. Sons of Liberty formed in Baltimore. Legal business carried on without stamped paper. March 18th, Stamp Act repealed.
- 1767. Attempt to tax by duty on paper, tea, etc.
- 1768. June 8th, Maryland Assembly protests.
- 1769. Governor Eden succeeds Governor Sharpe.
- 1769. June 20th, Non-Importation Association formed.
- 1770. Proclamation of fees and clergy dues.
- 1770. Duty taken off from some articles.
- 1771. Frederick Lord Baltimore dies. Henry Harford succeeds.
- 1771. Value of quit-rents, net, 7500 pounds sterling.
- 1771. Proprietary's income from province 64,000 dollars.
- 1773. Harford County erected.
- 1773. Caroline County erected.
- 1774. Boston Port Bill passed.



- 1774. The "Peggy Stewart" burnt, Oct. 19th.
- 1774. The Continental Congress met, September 5th.  
Non-importation agreement. Restrictions on exports.
- 1774. Population of Maryland, 320,000.
- 1774. June 22d, convention met at Annapolis; government of province assumed by it.
- 1775. April 19th, Battle of Lexington.
- 1775. July, articles of association formed in Maryland; basis of temporary government of province.
- 1776. June 28th, delegates to General Congress authorized to join the other colonies in Declaration of Independence.
- 1776. July 6th, Maryland Convention declared the state independent.
- 1776. Governor Eden withdrew from province, June 24.
- 1776. July 30, new convention provided for. Convention met Aug. 14.
- 1776. Declaration of Rights adopted, Nov. 3d.
- 1776. Constitution adopted, Nov. 8th.
- 1777. First Assembly under State government, Feb. 5th.
- 1777. Thos. Johnson, first governor of State.
- 1777. Confederation formed.
- 1779. Thos. Sim Lee, second governor.
- 1780. Confiscation Bill passed.
- 1781. Maryland joins Confederation, the public lands having been ceded by New York and Virginia.

## BATTLES IN WHICH MARYLAND TROOPS TOOK PART.

- 1776. Battle of Long Island.
- 1776. Storming of Fort Washington.
- 1776. Battle of Trenton.
- 1777. Battle of Princeton.
- 1777. Attack on Staten Island.
- 1777. Battle of Brandywine.
- 1777. Battle of Germantown.
- 1777. Fort Mifflin.
- 1778. Battle of Monmouth.
- 1780. Maryland Line ordered to Southern department.
- 1780. Battle of Camden.
- 1781. Battle of Cowpens.
- 1781. Battle of Guilford Court House.
- 1781. Battle of Hobkirk's Hill.
- 1781. Assault on Ninety-Six.
- 1781. Battle of Eutaw Springs.
- 1781. Siege of Yorktown, Oct. 19th.

## "THE CASES."

"The cases" submitted by Rev. Andrew White, Jesuit father, for solution to Henry More, provincial in England, by whom they were sent to Rome. These cases will be found to embrace the extravagant claims of the Roman ecclesiastics under the canonical and civil law, by which, although always opposed in England, they were enabled in other countries to wield such extensive powers, and to foster such excessive abuses. The points chiefly noticeable are the exemption of the clergy from the courts and statutes of the realm, the control of testamentary cases, and the interference in the matter of marriage. The Bull *In cœna Domini*, to which reference is made in "the cases" in various places, "Asserts the full supremacy of the Pope over all persons and powers, temporal and ecclesiastical. That decree forbids all persons whatsoever, directly or indirectly, to violate, depress, or restrain the ecclesiastical liberties or rights of the Apostolic See and Church of Rome, howsoever or whensoever obtained, or to be obtained, under pain of excommunication; and all who presume to oppose any of its provisions, are left under the displeasure of Almighty God."

"The cases" will be found to bring into juxtaposition and contrast these extravagant ecclesiastical claims, and the definite position of the English legislation. The question at issue was whether the principles of English legislation by king, lords and commons should extend to Maryland, or whether Lord Baltimore, the absolute lord, being a Roman Catholic, was bound in conscience to recognize the rights of the clergy as possessed and exercised in Roman Catholic countries. In response to the ques-

tion, Lord Baltimore quickly assumed a very decided position.

### “THE CASES.

“In a country (as this is) newly planted, and depending wholly upon England for its subsistence, where there is not, (nor can not be, until England be reunited to the Church) any ecclesiastical discipline established (by law of the Province or grant of the prynce) nor provinciall synod held, nor spiritual courts erected, nor the canon laws accepted, nor ordinary or other ecclesiastical persons admitted (as such), nor Catholic religion publickly allowed: and whereas three parts of the people, or foure (at least) are (1641) hereticks, I desire to be resolved:

I<sup>o</sup> Whether a lay Catholic can, with a safe conscience, take charge or government of an office in such a country as this, where he may not nor dare, discharge all the duties and obligations of a Catholic magistrate, nor yeald and mayntaine to the Church all her rights and liberties which Shee hath in other Catholic countryes?

II<sup>o</sup> Whether the lay Catholics (in such a country as this) are bound to accept or admit of all the canon law and in speciall of the Councill of Trent (*extra sidem*) or whether the canon law (as such) binds in this country afore it be accepted by some law or custom.

III<sup>o</sup> Whether the exemptions of the clergy for their persons, lands, goods, Tennants, Domestiques, or privilege of sanctuary to theyr houses or churches, etc., are due to them of Divine right, by immediate grant from Christ to his Church, so that princes becoming Christians, were instantly obliged in conscience to allow and confirme those exemptions, or at least to permit and suffer the Church to practice and enjoy them; or whether they should

them of the free and voluntary giift and devotion of pious princes and states, so that in a countrey newly erected, or becoming Xtian, a grant or charter from the prynce thereof of such libertyes and exemption is necessary before the clergy of such (a) country can clayme them as theyr right and due in point of conscience; and whether before such a grant, admittance or allowance of their priviledges, may the state practice contrary to them without sacriledges, or incurring the censures *Bullæ cænæ*.

IV<sup>o</sup> Whether houlding of Courts with external coercive jurisdiction, be a part of the powers of the Keys left by Christ to his Church, or whether it be a part of the sword, put by God into the hands of princes, and from them granted unto spiritual ordinaryes: and where ecclesiastical tribunals are here to be erected, with such power of external coercive jurisdiction, may the prynce erect by his own charter, or must it be done by special commission and delegation of the See Apostolique?

V<sup>o</sup> Whether the conusance of causes testamentary belongs to the spirituall Court out of the Nature of the causes themselves, and of the Church's proper right, so that Xtian prynces had no rightfull power to heare and determine them; or whether princes becoming Christian, did of theyr voluntary election sever theyr causes from theyr crown, and commit them to the spirituall ordinaryes, in consideration of some connexion and dependence which those causes have with some part of Xtian doctrine, which must be sought from the mouth of the priest, or in presumption of theyr faithfulness in discharging of their trusts?

VI<sup>o</sup> Whether in such a countrey as this, may lay judges, being Catholique, by commission from the Lord

Proprietary, or appointment of the law of the country, prove wills, and committ administrations of the goods of the deceased, intestate, or whether they must have an intention to do it as delegates of the See Apostolique, and are obliged to endeavor with effect to procure such delegation or else incur the censures of the *Bullæ cænæ*.

VII<sup>o</sup> Whether in such a country as this, may a Catholique refuse to prove and record a will for this reason, because it giveth legacyes for masses to be sayd for the soule of the deceased, and conteynes in it the profession of the testator, to dye a member of the Roman Catholique Church, out of which there is no salvation, with other passages contrary to the religion of England, or whether he is bound to prove it, though the Lord Proprietor may incur danger for such a record?

VIII<sup>o</sup> Whether Catholiques, being members of the General Assembly in such a country as this, may consent to the making of laws touching causes testamentary, and namely to a law which shall appoint the residue of the estate of the deceased persons, after all debts discharged and legacyes payed, to be employed to public uses of the state, and not to pious uses as it is in the other Catholique Countries?

IX<sup>o</sup> Whether Catholiques, being members of the General Assembly in such a country as this, may consent to a lawe prohibiting the bequeathing or otherwise aliening, of any fee to spiritual persons or religious houses, without leave of the prynce, and voiding all guifts and alienations made otherwise?

X<sup>o</sup> Whether a Catholique Executor or Adm<sup>or</sup>, in such a country as this, may observe the order of administering the goods of the deceased, used and prescribed in England (viz. to discharge first the debts due to the prynce,

then executions, then judgments, etc.); or whether he is bound to observe ordinem restitutiones delivered by Casuists (as Bonacina and others) viz. to discharge first the debtes due to spirituals, and after lay debtes, *in ordinis*, and whether a Catholique may refuse such an illegal account, and compel the Executor and administrator to satisfy creditors according to the laws of England?

XI<sup>o</sup> Whether may Catholiques, being members of a general Assembly, in such a country as this, consent to lawes touching causes matrimoniall, as to appoint the publishing of banns (for politique considerations) and to prohibit marriage without such banns published, or license obtained from the Commissary being lay; or to limit the degrees of consanguinity within which marriage shall not be contracted, or for the tryall and determinings of causes matrimonial, or whether may a Catholique being lay under the prynce, state, grant licenses of marriage, and by commission from the prynce try and determine such causes according to the laws of the country, or in defect thereof according to the common law, without incurring the censure B. Ca.?

XII<sup>o</sup> Whether may Catholiques being members etc., consent to a lawe prohibiting the marriage of apprentices without the consent of theyr masters or miss'ts, and imposing penalties upon the priest solemnizing, etc., and whether such a law be against liberty of marriage?

XIII<sup>o</sup> Whether may Catholiques being members (of Assembly) consent to a lawe which for publique custom barrs the female from inheriting, or houlding of lands, unless they marry within a time limited (only leaving them a liberty to sell or dispose thereof to theyr best advantage) and is such a law against conscience?

XIV<sup>o</sup> Whether land granted by the Lord Proprietor to religious persons by the ordinary and common conditions of plantations, doth EO IPSO (because granted to religious) become spiritual fee, and exempt from *laica onera*?

XV<sup>o</sup> If a trespass be pretended to be committed upon the lands held by Religious persons, whether may the Religious, without trying the trespass in some court (spiritual or temporal) proceed against the pretended trespasser by putting in force against him the censures *Bullæ Cœnæ*? And whether by such declarations the party be really and to all spiritual effects involved in the censures, afore to be adjudged a trespasser upon theyre land in some court?

XVI<sup>o</sup> When grants of lands, made by the prynce to several persons lay and Religious, are found prejudiciall to the publike, and fit to be reformed, whether may Cath'ls, being members (of Assembly) consent to a law reforming all such grants? And whether may such a general lawe include the grants made to the Religious; and whether may the prynce, by virtue of such a law, resume or reform such grants made to them afore, or with a voluntary surrender of them by the Religious?

XVII<sup>o</sup> Whether in such a country as this may the prynce or secular Judge, being a Catholique, summon ecclesiastical persons to the General Assembly, or draw them into secular courts where they are defendants in actions of debt, trespass, etc., and may he give sentence therein, as lawful Judge, and execute it upon theyr persons, lands, etc., without incurring the censures of *Bullæ Cœnæ*?

XVIII<sup>o</sup> Whether may the secular Judge, being a Catholique, proceed to the trial of clerks being in orders,



for any offence against the peace etc. of the Lord Proprietor, or for capital crime extending to the loss of life or members, without incurring, etc.

XIX<sup>o</sup> Whether may Catholiques, being (members of Assembly) consent to lawes imposing general contributions toward public charges, for the necessary support of the prynce, or defence of the country, and whether are spiritual persons, their lands, etc., included (for want of exemption)? And whether may the secular Judge, being Catholique, proceed against such spiritual persons, etc. or religious houses, (without special and expresse license from the see Apost.)? Or may he accept such imposition from such spiritual persons voluntarily without incurring etc.?

XX<sup>o</sup> Whether the representative body mett in General Assembly, may make lawes to dispose of the interests of particular persons, or of clergymen, not being present, nor having proxies in such Assembly (though lawfully summoned thereto), nor otherwise holding Synods provincially, wherein theyr consents to such laws might be expected, and whether are such laws against conscience?"

[Stonyhurst MSS., Anglia, Vol. IV, No. 108 k, quoted by B. T. Johnson verbatim, in *The Foundation of Maryland.*]

It was a contest between the older civilization and the new, between the freer constitution which was rapidly growing up in England, wherein all estates in the realm were coming to recognize and to occupy their true position under the civil government, and that former condition when every estate, and most notably the Church, was struggling for the mastery.

It was the last effort of the Church, and thus made Maryland historic soil. Other contests had to be entered into against royal despotism in England, and the attempted aristocratical sway by Parliament over America, before the victory of civilization in the dominion of the people was complete. This struggle and defeat of the ecclesiastical minority in Maryland was the beginning of a rapidly approaching end.

MEMORIAL sent to Rome with the "Twenty Cases," by the Provincial, Father More, and laid before the Sacred Congregation for the Propagation of the Faith:

"The provincial of the Society of Jesus, in England, humbly represents to your Eminence that in the month of June, 1632, the King of England granted to the noble baron of Baltimore, a Catholic, in propriety, a certain province on the sea coast of North America, inhabited by infidels, which is this day called the Land of Mary, or Maryland, after the reigning Queen of England. The said baron immediately treated with Father Richard Blount, at that time provincial, at the same time writing Father General, earnestly begging that he would select certain fathers as well for confirming the Catholics in the faith, and converting the heretics, who were designed to colonize that country, as well for propagating the faith among the infidels and savages. The affair was surrounded with many and heavy difficulties, *for in leading the colony to Maryland, by far the greater part were heretics, also the country itself, a meridie Virginie ab Aquilone*, is esteemed to be a New England, that is, two provinces full of English Calvinists and Puritans; so that not less, nay, perhaps, greater dangers threaten our fathers

in a foreign than in their native land of England. Nor is the baron himself able to find support for the fathers, nor can they expect sustenance from heretics hostile to the faith, nor from the Catholics, for the most part poor, nor from the savages, who live after the manner of wild beasts.

“ The zeal of the said Father Provincial conquered these and other difficulties, and at first two fathers were sent out, as it were, to explore and ascertain if there might be any hope of the gain of souls, when the country should appear ‘white to the harvest.’ Some years ago, a geographical description of this country was presented to his Eminence, Cardinal Barberini, protector, with an humble petition that he would deign to receive the Fathers sent out there, under the patronage of his kind protection, equally with the rest in England, so that the matter might be transacted in the most secret way and without offence to the state of England. After this the fathers indeed increased both in numbers and in courage, in hunger and in want, in frequent diseases, which were fatal to some, and, lastly, through various dangers, applied themselves with constancy to the salvation of souls, learnt the Savage language, which is composed of various dialects, composed a dictionary, a grammar, and a Catechism for the use of the infidels, and the Divine goodness was pleased, so to favor these attempts that, beside others, a certain Emperor, having many tributary kings under him, with his wife and family and some of his ministers, were brought to the faith, and unless hindered, ‘*a domestices fidei*,’ a great door was laid open to the gospel. These impediments, and severe ones, did indeed arise, and from those from whom they were the least due.

“For since the said baron was unable to govern Maryland in person, he appointed as his substitute a certain Mr. Lewger his secretary, who was formerly a minister and preacher, and being converted to the faith, retained yet much of the leaven of heresy; for he still maintained those dogmas so justly offensive to Catholic ears,—that no external jurisdiction was given by God to the Supreme Pontiff, but merely an internal one *in foro conscientiæ*, that no immunity of goods or persons was due to him, or any other ecclesiastics, except as such lay princes and seculars chose to confer upon him or them; that it would be a great offence, to be mulct by punishment, to exercise any jurisdiction whatsoever, even of absolving from sins, without special license from the baron, from whom all lawful jurisdiction was derivable. That a virgin, making a vow of virginity, and not marrying after the twenty-fifth year of her age, could not hold lands by heirship, coming from her parents, but that they must be sold, and if the party refused to do (so), then by compulsory sale. That the General Assembly or Parliament possesses so great an authority over the property of all, that it could dispossess every one it chose of their all, even to the undergarment, for the use of the Republic, and other such like propositions of the said Mr. Lewger are comprehended in 20 questions which are laid before this Sacred Congregation by the hands of the Secretary.

“Therefore this Secretary, having summoned the Parliament in Maryland, composed with few exceptions of heretics and presided over by himself in the name of the Lord Baltimore himself (probably in 1640) he attempted to pass the following laws repugnant to the Catholic faith and ecclesiastical immunities: That no virgin can

inherit, unless she marries before 29 years of age; that no ecclesiastic shall be summoned in any cause, civil or criminal, before any other than a secular judge; that no ecclesiastic shall enjoy any privilege, except such as he is able to show *ex scriptura*, nor to gain anything for the Church, except by the gift of the prince, nor to accept any site for a church or cemetery, nor any foundation from a convert Indian King, nor shall any one depart from the province even to preach the Gospel to the infidels by authority of the See Apostolic, without a license from the lay magistrate; nor shall any one exercise jurisdiction within the province which is not derived from the baron, and such like.

“The fathers of the Society warmly resisted this foul attempt, professing themselves ready to shed their blood in defence of the faith, and the liberty of the Church,—which firmness greatly enraged the Secretary, who immediately reported to the Baron Baltimore that his jurisdiction was interrupted by the fathers of the Society, whose doctrine was inconsistent with the government of the province. Hence, the said baron, being offended, became alienated in his mind from the fathers of the Society of Jesus, and at first *ipso facto* seized all their lands, and let them to others, as though he were the lord and proprietor of them, although King Patuen had given them the same lands, when he was a catechumen, upon the express condition for supporting priests who had brought his subjects to the true knowledge, faith and worship of God. The said baron, with others favorable to his opinions, began to turn his attention to the expulsion of the fathers and the introducing others in their stead, who would be more pliable to his Secretary. Therefore he procured last year,

to petition the sacred congregation of the propagation of the faith, in the name of the Catholics of Maryland, to grant a prefect and priests of the secular clergy, faculties for the same mission, making no mention in the meantime, of the labours of the fathers undertaken in that harvest, nor expressing the motives which induced him to substitute new priests. And in order that he might have some new grounds to urge for calling away the fathers of the Society from thence, he proposed certain points, similar to those laid before the Sacred Congregation, to be presented to the provincial by the hands of the Secretary, that he might subscribe them in the name of himself and of the fathers in Maryland.

“But the Sacred Congregation, being entirely ignorant of these matters, granted the petition, and in the month of August, 1641, faculties were expedited from the Sacred Congregation, and were transmitted to Dom Rosetti, now Archbishop of Tarsus. But since, perhaps, either the prefect is not as yet appointed, or the faculties delivered, but are as yet it is hoped, in the hands of Father Phillips, the Confessor of the Queen of England, the said provincial humbly begs of your Eminence to deign to direct that the said faculties be superseded if the matter is yet entire, or if by chance the faculties are delivered, that the departure of new priests may be retarded for so long as to allow the Holy See to decide upon what is best to be done for the good of souls.

“The fathers do not refuse to make way for other labourers, but they humbly submit for consideration whether it is expedient to remove those who first entered into that vineyard at their own expense, who for *seven years* have endured want and sufferings, etc.; who have

lost four of their own confreres, labouring faithfully unto death; who have defended sound doctrine and the liberty of the Church, with odium and temporal loss to themselves; who are learned in the language of the Savages, of which the priests to be substituted by the Baron Baltimore are entirely ignorant, and which priests either allow or defend that doctrine from which it must needs be that contentions and scandals should arise, and the spark of faith be extinguished, which begins to be kindled in the breast of the infidels.

“Nevertheless the fathers profess themselves ready with all submission either to return to England, from Maryland, or to remain there and to labor, even to death, for the faith and the dignity of the Holy See, as may seem fit to the prudence, the goodness and charity of your Eminence.”

[Quoted by B. T. Johnson, in *The Foundation of Maryland*, from Stonyhurst MSS., Anglia, Vol. IV, 108 k, verbatim.]





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